

**Time and Date**

2.00 pm on Thursday, 20th February, 2020

**Place**

Committee Room 3 - Council House

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1. **Apologies for Absence**
2. **Declarations of Interest**
3. **Members Declarations of Contact on Planning Applications**

Members are reminded that contacts about any planning applications on this agenda must, unless reported to this meeting by the Head of Planning, be declared before the application is considered.
4. **Minutes of Previous Meeting held on 23 January 2020** (Pages 3 - 6)
5. **Late Representations** (Pages 7 - 10)

To be circulated at the meeting.
6. **Outstanding Issues**

There are no outstanding issues.
7. **Application FUL/2019/2898 - Wall Hill Farm, Wall Hill Road** (Pages 11 - 24)

Report of the Head of Planning and Regulation
8. **Application FUL/2019/3094 - 3 Postbridge Road** (Pages 25 - 36)

Report of the Head of Planning and Regulation
9. **Application DC/2019/3189 - Land at Scots Lane** (Pages 37 - 46)

Report of the Head of Planning and Regulation
10. **Application VG/2018/3366 - Application to register land at Juniper Park, Woodridge Avenue as a town or village green** (Pages 47 - 78)

Report of the Head of Planning and Regulation
11. **Appeals Report** (Pages 79 - 106)

Report of the Head of Planning and Regulation

**12. Any other items of public business which the Chair decides to take as matters of urgency because of the special circumstances involved**

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Martin Yardley, Deputy Chief Executive (Place), Council House Coventry

Wednesday, 12 February 2020

Note: The person to contact about the agenda and documents for this meeting is Usha Patel

Membership: Councillors N Akhtar, P Akhtar, A Andrews, R Auluck (Deputy Chair), R Bailey, L Harvard (Chair), L Kelly, G Lloyd, C Miks, D Skinner and S Walsh

By invitation Councillor: Councillor T Khan

Please note: a hearing loop is available in the committee rooms

If you require a British Sign Language interpreter for this meeting  
OR if you would like this information in another format or  
language please contact us.

**Usha Patel**

**Tel: 024 7697 2301**

**Email: [usha.patel@coventry.gov.uk](mailto:usha.patel@coventry.gov.uk)**

**Coventry City Council**  
**Minutes of the Meeting of Planning Committee held at 2.00 pm on Thursday, 23**  
**January 2020**

Present:

Members:                   Councillor L Harvard (Chair)  
                                  Councillor P Akhtar  
                                  Councillor A Andrews  
                                  Councillor R Auluck  
                                  Councillor G Lloyd  
                                  Councillor C Miks  
                                  Councillor D Skinner  
                                  Councillor S Walsh

Employees (by Directorate):

Place: M Andrews, S Choudhury, C Sinclair, E Spandley, C Thomson, C Whitehouse

Apologies:                Councillor N Akhtar and R Bailey

## **Public Business**

### **76.     Declarations of Interest**

Councillor A Andrews declared an interest in the matter referred to at Minute 82 below entitled "Application S73/2019/2774 – 23 Innis Road". His interest arose as he had previously objected to the planning application on this site and this application was to vary a condition on that permission. He withdrew from the meeting during consideration of this matter.

### **77.     Members Declarations of Contact on Planning Applications**

There were no declarations of contacts.

### **78.     Minutes of the Meeting held on 19 December 2019**

The minutes of the meeting held on 19 December 2019 were signed as a true record.

### **79.     Late Representations**

The Late Representation document was tabled.

### **80.     Outstanding Issues**

There were no outstanding issues.

### **81.     Application FUL/2019/2641 - 10 Brill Close**

The Committee considered a report of the Head of Planning and Regulation detailing the above application for conversion of the dwelling house into a 7-person house in multiple occupation (HIMO). The application was recommended for approval.

Councillor T Sawdon, a Wainbody Ward Councillor, attended the meeting and spoke in respect of his objections to the application. The applicant's agent also attended the meeting and spoke in support of the application.

**RESOLVED that planning permission be granted in respect of Application FUL/2019/2641 subject to conditions.**

**82. Application S73/2019/2774 - 23 Innis Road**

The Committee considered a report of the Head of Planning and Regulation detailing the above application for variation of Condition no 2 (drawing numbers to increase ridge height) imposed on planning permission FUL/20183439 for demolition of existing dwelling and erection of a replacement dwelling and associated works granted on 14 March 2019. The application was recommended for approval.

A registered public speaker attended the meeting and spoke in respect of their objections to the application. The applicant also attended the meeting and spoke in support of the application.

**RESOLVED that planning permission be granted in respect of Application S73/2019/2774 subject to conditions.**

**83. Pre-application Charging Regime**

The Committee noted a report of the Head of Planning and Regulation which set out details of a pre-application charging regime for planning advice. The charging scheme had been reported to the Planning Committee for noting and the Cabinet Member for approving in August 2017.

Charging for major development pre-application advice was already being undertaken however the report indicated that, due to significant and ongoing delays with the introduction of a new IT system and appointing permanent staff, the remainder of the pre-application request charging scheme had not been implemented.

The increased pressure for local authorities to be self-financing by 2020 and, with the emphasis on the City Council to become more commercially minded, officers had reviewed the existing regimes in the planning, highway and drainage service areas and proposed changes to provide a 'one stop shop' approach. The scheme was set out as an appendix to the report.

It was also proposed that the charging schedule would be reviewed on an annual basis and fee adjusted where appropriate.

**84. Any other items of public business which the Chair decides to take as matters of urgency because of the special circumstances involved**

There were no other items of public business.

(Meeting closed at 3.00 pm)

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## Late Representations Planning Committee 20 February 2020

Item No. 10	<p><b>Application No. - VG/2018/3366</b></p> <p><b>Description of Development</b> - Application for the Registration of land as a Town or Village Green</p> <p><b>Site Address</b> - Juniper Park Woodridge Avenue</p> <p><b>Consultation</b></p> <p>3 further public responses have been received. These can be summarised as follows:</p> <p>A request for a copy of the documentation referred to in 4.26 of the inspector's report and if this cannot be provided then the application should be withdrawn from Committee.</p> <p>Comments that the Councils interpretation of 4.24 &amp; 4.26 of the Inspectors report is incorrect and that the registration authority must take account of further evidence, namely how the Council appropriated the land as public open space and if it is not proven that the land has been appropriated under "normal formal process" then the application should be referred back to the Inspector. They also state that the Inspectors recommendation of checking the title documents should be adhered to prior to committee and that this information should be provided to them. They also raise the issue of conflict of interest as the Council is the Planning Authority, Registration Authority and landowner and that the committee report does not highlight the commercial Hallam Interest or proposed public transport route, which was not highlighted to the Inspector.</p> <p>Further comments that there is documentation that the Council has been requested to provide that was not made available to the Inspector and that the item should therefore be adjourned</p> <p><b>Appraisal</b></p> <p>Para. 4.26 of the inspector's report states;</p> <p><i>"The transfer does not identify the purpose for which the Land was acquired. According to the Landowner's representations dated 22 October 2019: "The Land was later appropriated as Public Open Space under the normal formal process." Unfortunately, despite a request, the Landowner has not produced any documentation in support of such appropriation. I must make my findings on the basis of the evidence made available. If any further supporting or contradictory evidence relating to my findings is made available to the Registration Authority prior to it reaching its decision, such evidence must of course be taken into account by the Registration authority in determining the application."</i></p> <p>This does not say that further evidence must be made available, but that if any further evidence comes to light it should be taken into consideration by the Registration Authority. The Inspector was satisfied that a recommendation could be made on the basis of the documents provided and without the full details of 'how the land was appropriated as public open space' as there was no evidence to contradict the assertion that the land is held as public open space. Notwithstanding the appropriation of the land, the key to this whole argument made by the Inspector, is whether the land has been</p>
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	<p>used by right or as of right, and the Inspector is clear in her conclusion that it is 'by right' and consequently that all of the criteria for registration are not met.</p> <p>As the City Council are Registration Authority, Planning Authority and Landowner in this instance, in order to avoid any conflict of interest, it was considered appropriate to appoint an independent inspector to assess the information submitted in respect of the application and make a recommendation.</p> <p>Any commercial interests in the land or proposed public transport routes are not material to this case as an application to register land as a town or village green is not determined on its merits, but on the facts of the case and whether ALL of the elements of the qualifying criteria under section 15(1) and 15(2) of the Commons Act 2006 are met.</p>
<p>Item No. 7</p>	<p><b>Application No. - FUL/2019/2898</b></p> <p>Description of Development - Erection of a replacement storage building</p> <p><b>Site Address</b> - Wall Hill Farm Wall Hill Road</p> <p><b>Consultation Responses:</b></p> <p>Following the publication of the report a further six representations have been received in support of the application.</p> <p>The following comments are material planning considerations:</p> <ul style="list-style-type: none"> <li>• This is much needed rural business supplying a local; excellent and necessary service to local people; farmers and businesses.</li> <li>• The council is keen for residential properties why not support a hard-working business which supports hard working people.</li> <li>• The new building would be a considerable improvement on what is already there- the building will not be visible to the street scene.</li> <li>• The site will be tidy and more secure.</li> <li>• The building is to be in keeping with other buildings within the site.</li> <li>• The additional job being created has to be good for the area and will go some way to mitigating the loss of jobs because of agricultural land being given over to housing by the council's local plan.</li> </ul> <p>The following comments are non-material planning considerations:</p> <ul style="list-style-type: none"> <li>• A letter of support for the proposal has been received from the adjoining land owner. The letter clarifies the position of adjoining structures but does not add any further comment to the proposed development itself.</li> </ul> <p><b>Appraisal:</b></p> <p>These material planning considerations have been considered within the officer report.</p>



Item  
No. 8

**Application No. - FUL/2019/3094**

Description of Development - Demolition of existing single storey garage and bathroom, construction of a new three bedroom dwelling including formation of new vehicle access and extension of dropped kerbs to existing vehicle access

**Site Address** - 3 Postbridge Road

**Consultation**

One late representation has been made objecting to the application on the grounds of reduced parking for visitors and the proposed dwelling utilising an existing rear access for other properties in the vicinity.

Ward members made no representations in relation to this application.

**Appraisal**

These matters have been covered in the report as part of the parking and road safety considerations.

**Additional Conditions**

In order to further support sustainable development, two additional conditions are proposed to be added to the decision notice if approved.

7. Prior to occupation of the proposed development engineering details of the proposed 2 No. new footway crossings for vehicular access are to be submitted and approved in writing by the Local Planning Authority. [this should include detail that the short section of the existing footway crossover currently serving the retained dwelling house is to be reinstated and permanently closed to vehicles to prevent the possibility of continued vehicular over-running of the gully]. Then prior to occupation the new footway crossovers shall be implemented, retained therein after and kept available for this use at all times.

**Reason:** *In the interests of highway safety and the free flow of traffic using the Adjoining Highway.*

8. Prior to occupation of the proposed development the visibility splays shown on the submitted drawing B19/22/BL01D shall be provided in accordance with that drawing and shall be kept clear of all obstructions (both landscaping and/or structures) and nothing within the splays shall exceed 600 mm in height.

**Reason:** *In the interests of highway safety and the free flow of traffic using the adjoining Highway.*



<b>Planning Committee Report</b>	
<b>Planning Ref:</b>	FUL/2019/2898
<b>Site:</b>	Wall Hill Farm Wall Hill Road CV7 8AF
<b>Ward:</b>	Bablake
<b>Proposal:</b>	Erection of a replacement storage building
<b>Case Officer:</b>	Ayesha Saleem

## SUMMARY

The application is a full application for the erection of a storage building. The principle and scale of development is considered to be unacceptable as the proposal is considered to have a detrimental impact upon the openness and character of the Green Belt.

## BACKGROUND

The application has been recommended for refusal. The application has more than five representations, in support of the application.

## KEY FACTS

<b>Reason for report to committee:</b>	There has been more than five representations.
<b>Current use of site:</b>	The application site comprises of an engineering workshop for the repair and maintenance of agricultural vehicles and machinery.

## RECOMMENDATION

Planning committee are recommended to refuse planning permission

## REASON FOR DECISION

- The principle of development and the scale is considered to be unacceptable. The proposal is considered to have a detrimental impact upon the openness and character of the Green Belt.
- The proposal does not accord with Policy DE1, DS3, GB1, H3 of the Coventry Local Plan 2016, together with the aims of the National Planning Policy Framework (NPPF), in particular paragraph 145 and 146.

## APPLICATION PROPOSAL

The application site relates to a detached outbuilding located within the curtilage of Wall Hill Farm accessed via Wall Hill Road. The new outbuilding is to replace two existing structures on site; one storage building and one container.

The application site is used as an engineering workshop for the repair and maintenance of agricultural vehicles and machinery (Use Class B2) and an external washing area. The application site to the north and west is surrounded by fields of grassland. To the east are residential dwellings.

The application site is located within the Green Belt.

## SITE DESCRIPTION

The proposal is to erect an outbuilding located to the front of the site on Wall Hill Road. The building is to have a length of 20.0 metres, a width of 9.0 metres and a maximum height of 5.5 metres.

The outbuilding is to have a gable roof and is to be designed in Flush Pointed Blockwork and Green Profile Sheeting.

The building is to be used for the storage of stock in conjunction with the existing business. This can be high value stock that cannot be left outside unsecured.

## PLANNING HISTORY

Application Number	Description of Development	Decision and Date
R/2010/0506	Change of use of existing grain store to an engineering workshop for the repair and maintenance of agricultural vehicles and machinery (Use Class B2) and an external washing area	Approved 09/07/2010

## POLICY

### National Policy Guidance:

National Planning Policy Framework (NPPF). The new NPPF published on 19<sup>th</sup> February 2019 sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system only to the extent that is relevant, proportionate and necessary to do so. The new NPPF increases the focus on achieving high quality design and states that it is "fundamental to what the planning and development process should achieve".

The NPPF carries a presumption in favour of sustainable development and states that, for decision taking, this means "approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."

The site falls within the Green Belt therefore Section 13 of the NPPF (Protecting Green Belt Land) is relevant. Paragraph 133 states that "The government attaches

great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.”

Paragraph 134 sets out the purposes of the Green Belt:

- (a) to check the unrestricted sprawl of large built-up areas;
- (b) to prevent neighbouring towns merging into one another;
- (c) to assist in safeguarding the countryside from encroachment;
- (d) to preserve the setting and special character of historic towns; and
- (e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Paragraph 143 states inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 145 states local planning authorities should regard the construction of new buildings as inappropriate in the Green Belt with certain exceptions. Paragraphs 145 and 146 include a ‘closed’ list of the types of development which should be regarded as not inappropriate within the Green Belt.

Paragraph 84 states planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

In relation to design and residential amenity section 12 of the NPPF seeks to ensure the creation of high-quality buildings and places and that good design is a key aspect of sustainable development. Paragraph 127 of the NPPF states that “planning policies and decisions should ensure that developments function well and add to the overall quality of the area, not just for the short term but over the life time of the development”. Paragraph 130 states, “Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.”

The National Planning Practice Guidance (NPPG) 2018, this adds further context to the NPPF, and it is intended that the two documents are read together.

### **Local Policy Guidance**

The current local policy is provided within the Coventry Local Plan 2016, which was adopted by Coventry City Council on 6<sup>th</sup> December 2017. Relevant policy relating to this application are:

DE1 – Ensuring High Quality Design;  
DS3 – Sustainable Development;  
AC2 – Road network;  
GB1 – Green Belt and Local Urban Green Space;  
JE5 – Location of R&D, Industrial and Storage/ Distribution of Development

**Supplementary Planning Guidance/ Documents (SPG/ SPD):**

Design Guideline for Developments in Coventry’s Ancient Arden – A Historic Landscape Area 1995

**STATUTORY CONSULTATION RESPONSES**

Environmental Protection (CCC) – No objection  
Highways (CCC) – No objection  
Planning Policy (CCC)- Objection

**PUBLIC RESPONSES**

Notification letters were sent out to adjoining neighbours and a site notice was displayed on 2nd December 2019.

Sixteen letters of support have been received raising the following material planning considerations:

- a) Current buildings are not in a repairable state and replacement would improve this
- b) Design is in keeping
- c) Not visible to the road- minimal impact to the surroundings
- d) Support local rural businesses in developing which are needed in the community- The agricultural supply business is increasingly being taken over by large national and global businesses and it is very important that independent traders can expand to serve local needs.
- e) No impact upon the Green Belt
- f) No impact upon residents

Within the letters received the following non-material planning considerations were raised, these cannot be given due consideration in the planning process:

- g) Needed for security- more storage can only be acceptable.
- g) Safe place for vehicles to be kept when being repaired
- h) The applicant provides an excellent service to the local and wider community

Allesley Parish Council also support the application. The proposed new building replaces an existing dilapidated building and cannot be seen from the road. Therefore, it would not be detrimental to anyone or the landscape

Any further comments received will be reported within late representations.

**ASSESSMENT**

Principle of Development:

Policy JE5 states proposals for new R&D, industrial and storage/distribution development (including changes of use and the expansion of existing operations) on sites not allocated under Policy JE2 will be permitted provided that they are:

- a) Accessible by a choice of means of transport or will be made accessible by a choice of means of transport as a consequence of planning permission being granted for the development; and
- b) Have good access to a primary route on the highway network and an acceptable impact on the capacity of that network; and
- c) The proposal would not significantly compromise the viability or deliverability of land allocated in this Plan for employment development; and
- d) The development is compatible with other Plan Policies.

Policy GB1 states 'Inappropriate development will not be permitted in the Coventry Green Belt unless very special circumstances exist. Paragraph 133 of the National Planning Policy Framework (the Framework) makes it clear that the Government attaches great importance to the Green Belt and the protection of its essential characteristics, those being openness and permanence. Paragraph 143 confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. New buildings are to be regarded as inappropriate development, subject to the express exceptions outlined in paragraphs 145.

Paragraph 145 of National Planning Policy Framework (NPPF) provides a clear guidance on the inappropriateness and indicates the types of development which are exceptions and could be appropriate development in the Green Belt. These are below:

- a) Buildings for agriculture and forestry;
- b) The provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- c) The extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- d) The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e) Limited infilling in villages;
- f) Limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
- g) Limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
  - not have a greater impact on the openness of the Green Belt than the existing development; or

– not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

This application seeks to create a new B2 storage unit, then Local Plan Policy JE5 is applicable. It is important to consider that this location of this site is not in one of the employment allocations as defined in Policy JE2. Therefore, it will need to meet the criteria set out in paragraph 2 of Policy JE5. It would appear to be challenging for this site to meet the highway specific requirements of points a and b due to the location of the site in a rural location and associated inadequacies of Wall Hill Road to accommodate employment generating uses. Nevertheless, given the use is associated with the existing business on site highway officers have raised no objections to the proposal and planning policy officers are satisfied that the proposal would not compromise the viability and/or deliverability of employment land allocations in the Local Plan.

Point d of Local Plan Policy JE5 notes that the application must also conform to all relevant planning policies. Consequently, due to the fact that the location of this development is within the Coventry Green Belt, Local Plan Policy GB1 is applicable. This policy (paragraph 2) notes that “development proposals, including those involving previously developed land and buildings, in the Green Belt will be assessed in relation to the relevant national planning policy”. Whilst the proposal is for a replacement structure and will include the clearance of 2 existing outbuildings, neither outbuilding benefits from existing planning consent, therefore they cannot be given any weight when considering this proposal. However, due to the passage of time it can be seen from aerial view maps that these buildings have been present within the site for over four years. Notwithstanding, the existing structures result in a floor space of circa 73.8 sqm cumulatively. The proposed structure is to result in a floor space of circa 180 sqm, although in the same use the building is considered to be materially larger than the structures it is to replace. In this respect the NPPF considers the construction of new buildings in the Green Belt as inappropriate in the first instance. As the application stands, the proposed construction does not meet any of the exception criteria set out in paragraphs 145 and 146 of the NPPF. The applicant states that the use of the proposed building is for storage of high valuable stock in connection with the existing business on the site. Whilst an important consideration it is not considered adequate to demonstrate very special circumstances. Furthermore, with regards Paragraph 84 of the NPPF the proposal is not considered to be sensitive to its surroundings given its impacts on the Green Belt. As such, this application is contrary to both local and national planning policy and Planning Policy officers object to the proposal.

#### Impact upon Visual Amenity:

Policy DE1 of the Local Plan seeks to ensure high quality design and development proposals must respect and enhance their surroundings and positively contribute towards the local identity and character of an area.

Chapter 12 of the NPPF requires that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.



The initial design of the proposed outbuilding is considered to be acceptable. The pitched roof form design and materials would have an acceptable impact upon the visual amenity. The proposed maximum height of the outbuilding is circa 5.5 metres. The site is screened by a hedge and trees; thus, this outbuilding would not be visible or prominent within the street scene. However, there is no control over this hedge and trees and if these were to be removed given the level changes within the site the outbuilding would be prominent within the street scene. Notwithstanding the suitability of the proposed design and materials the proposed building is substantially bigger than the existing units it will replace, and the general scale and massing of the outbuilding is considered to be too large given it is only for storage purposes and no justification has been put forward to why the storage building needs to be at the proposed scale. Thus, the proposal is contrary to policy DE1 of the Coventry Local Plan 2016.

#### Impact on residential Amenity:

Given the siting of the outbuilding it is not considered to have a detrimental impact upon the amenity of this neighbouring occupant in regard to overbearing and overshadowing.

#### Other Matters:

Highway officers have no objections to the proposal as the access into the site is to remain unaffected.

Environmental Protection and Ecology officers have no objections to the proposal.

#### Equality implications

Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

There are no known equality implications arising directly from this development.

#### **CONCLUSION**

The proposal is contrary to Policies DE1 and GB1 of the Coventry Local Plan 2016 and the aims and objectives of the NPPF by reason of the outbuildings scale which

would result in a detrimental impact upon the visual amenity of the site. The proposed outbuilding lies within land designated as Green Belt wherein there is a presumption against inappropriate development unless justified by very special circumstances. Very special circumstances have not been demonstrated to justify an exception being made.

#### **CONDITIONS/ REASON**

1. The proposal is contrary to Policies DE1 and GB1 of the Coventry Local Plan 2016 and the aims and objectives of the NPPF by reason of the outbuildings scale which would result in a detrimental impact upon the visual amenity of the site. The proposed outbuilding lies within land designated as Green Belt wherein there is a presumption against inappropriate development unless justified by very special circumstances. Very special circumstances have not been demonstrated to justify an exception being made.



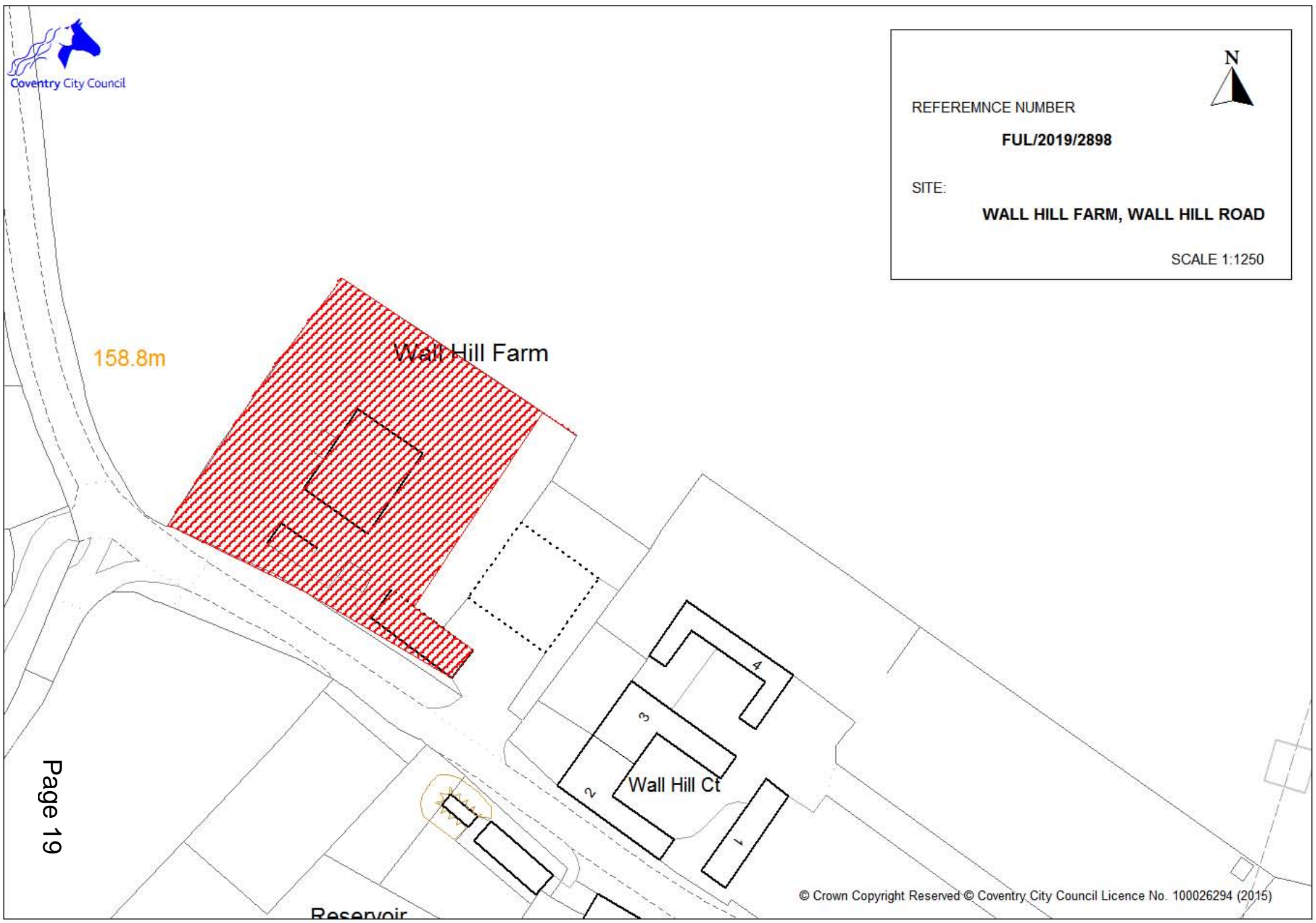
REFEREMNCE NUMBER

**FUL/2019/2898**

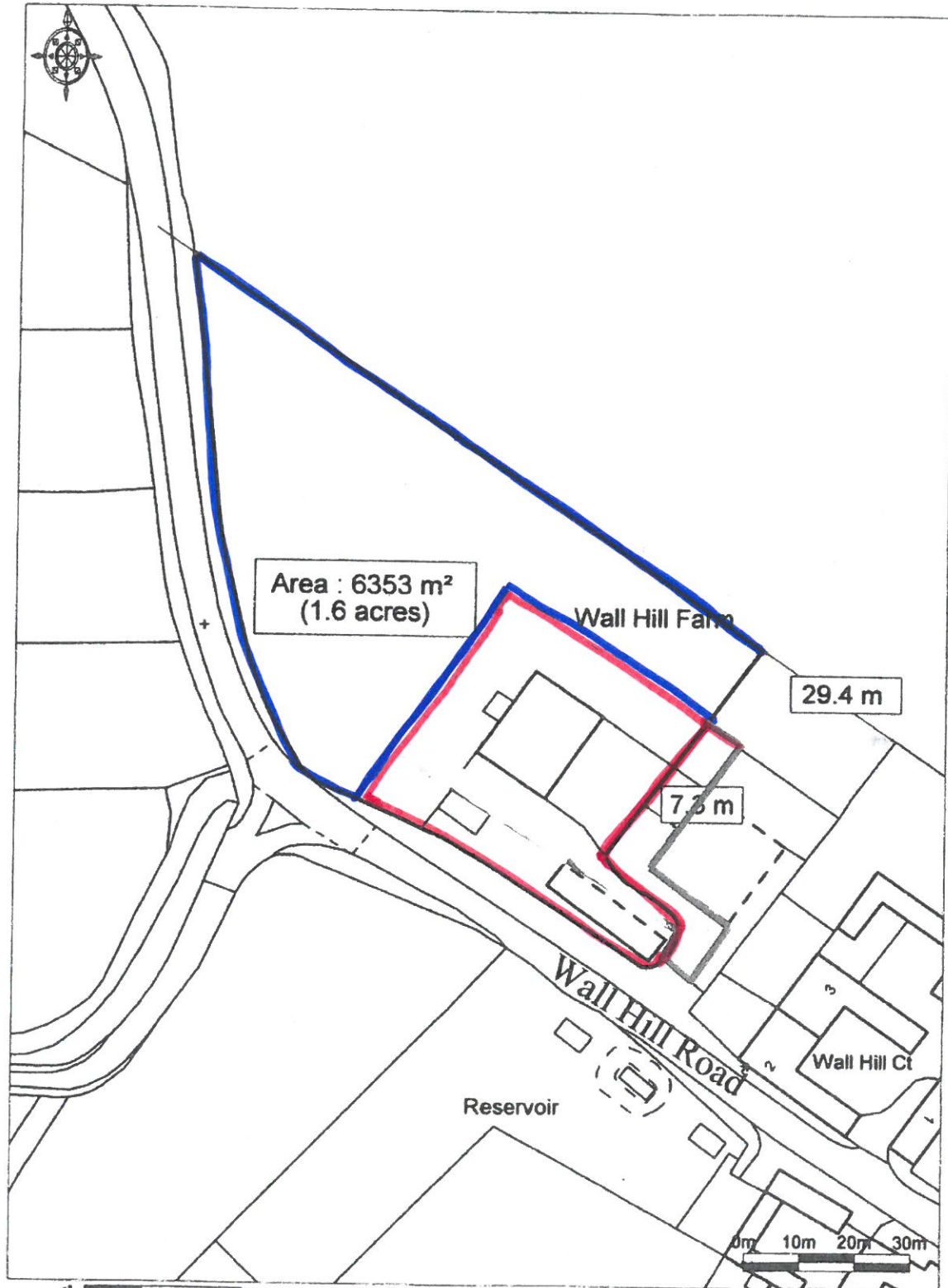
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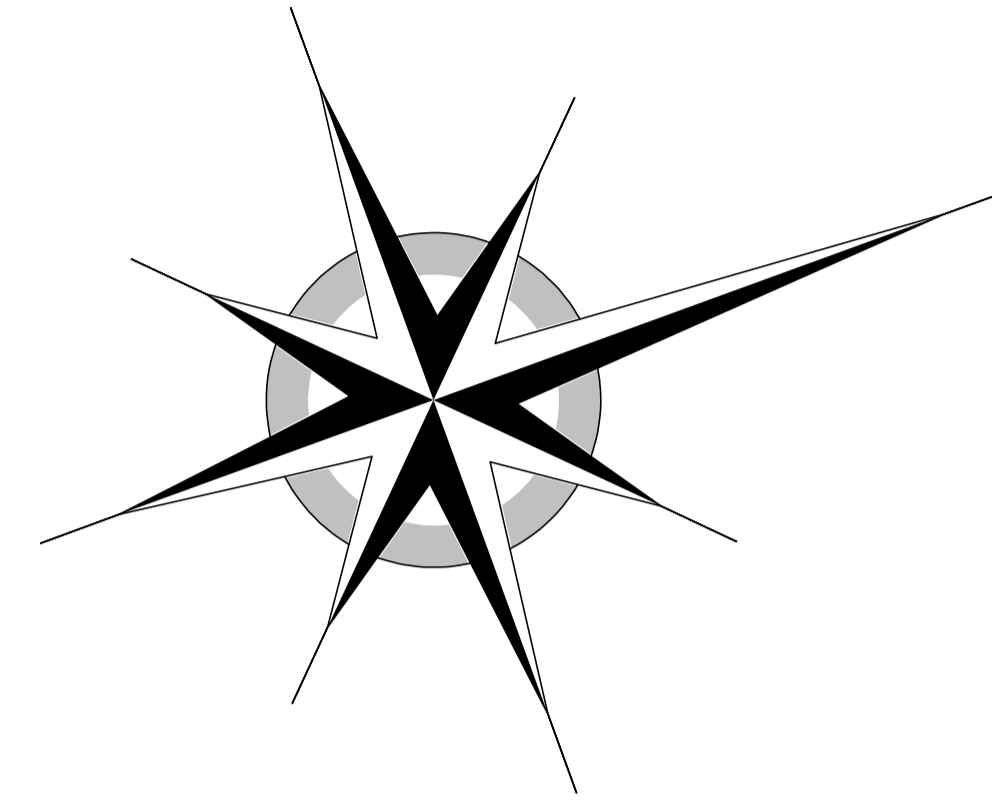
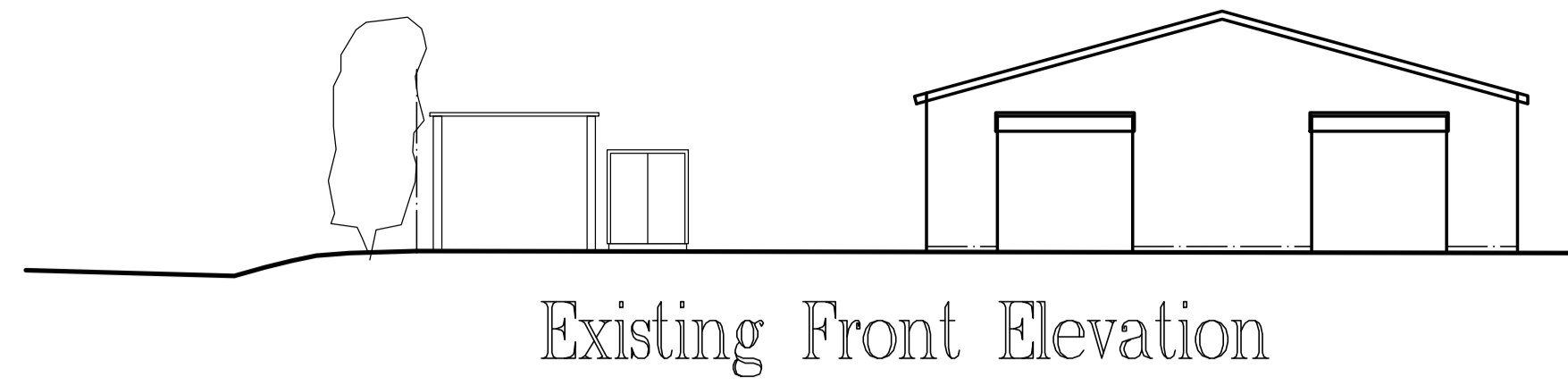
**WALL HILL FARM, WALL HILL ROAD**

SCALE 1:1250

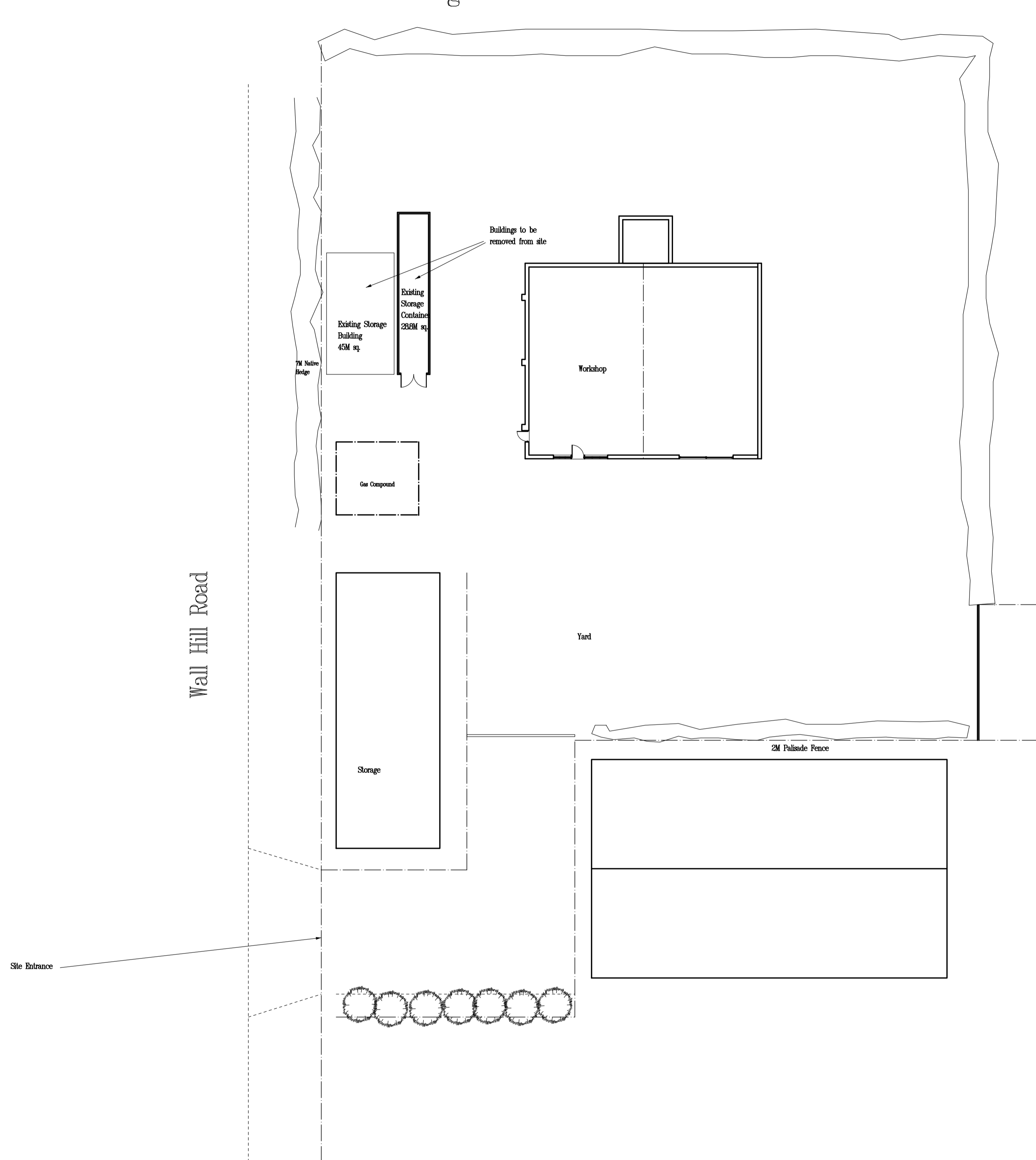


Wall Hill Farm,  
Wall Hill Lane,  
Nr Corley Moor,  
Coventry.





Existing Block Plan  
Scale 1:200



CDM Regulations 2015 :  
Nothing in our appointment or provision of drawings shall be deemed to create any appointments as or obligations as a duty holder to Regulation 7 of the CDM Regulations 2015.

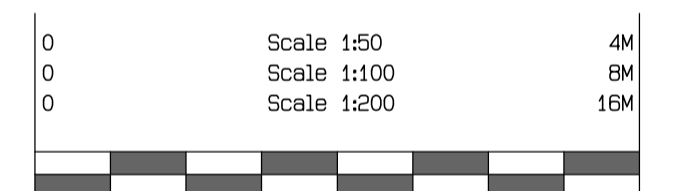
Smoke Detection to BS5839 Pt 6 2019 Min L3 standard. Smoke Detection to be mains operated with battery back-up. Smoke heads to be Max 7M from any kitchen and Living Room doors and 3M from any bedroom doors. A separate Conformance Certificate is to be provided by the Installation Contractor.

TRUSS: If truss' form part of this drawing and the pitch is shown to match the existing roof pitch, then it is the responsibility of the CONTRACTOR to check on-site the exact pitch and wallplate to wallplate dimension prior to placing any order and to contact this office for confirmation as the exact pitch of the roof members can only be verified once the roof has been opened up. No responsibility will be accepted for orders being placed incorrectly.

NOTE  
In the absence of detailed ground condition information the foundations assume satisfactory ground bearing conditions, which must be verified on site and agreed suitable with L.A. Officer. Further consideration to detail may have to be given either before or during construction. Building Contractor to ensure that work is carried out only to the officially APPROVED plans. IF IN DOUBT ASK.

THIS DRAWING IS NOT A CONTRACTUAL DRAWING and is principally prepared to obtain Local Authority Approvals. Nor does it constitute a production drawing. Further consideration may have to be given to details on site either before or during the contract period.

CLIENT TO NOTE  
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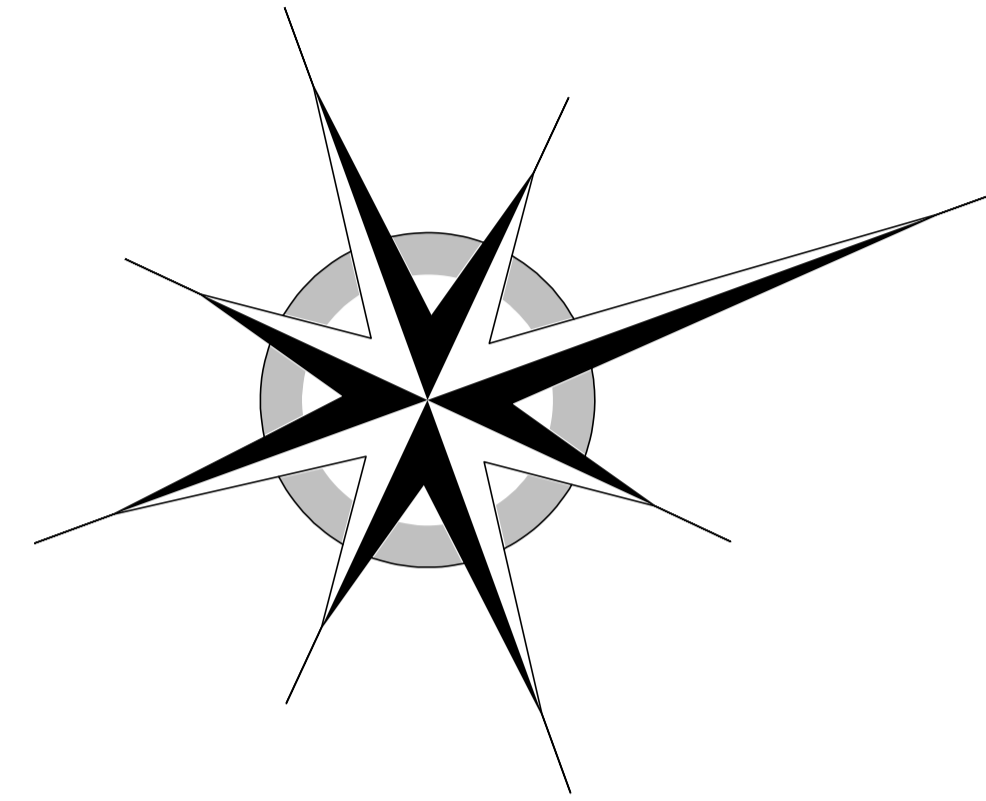
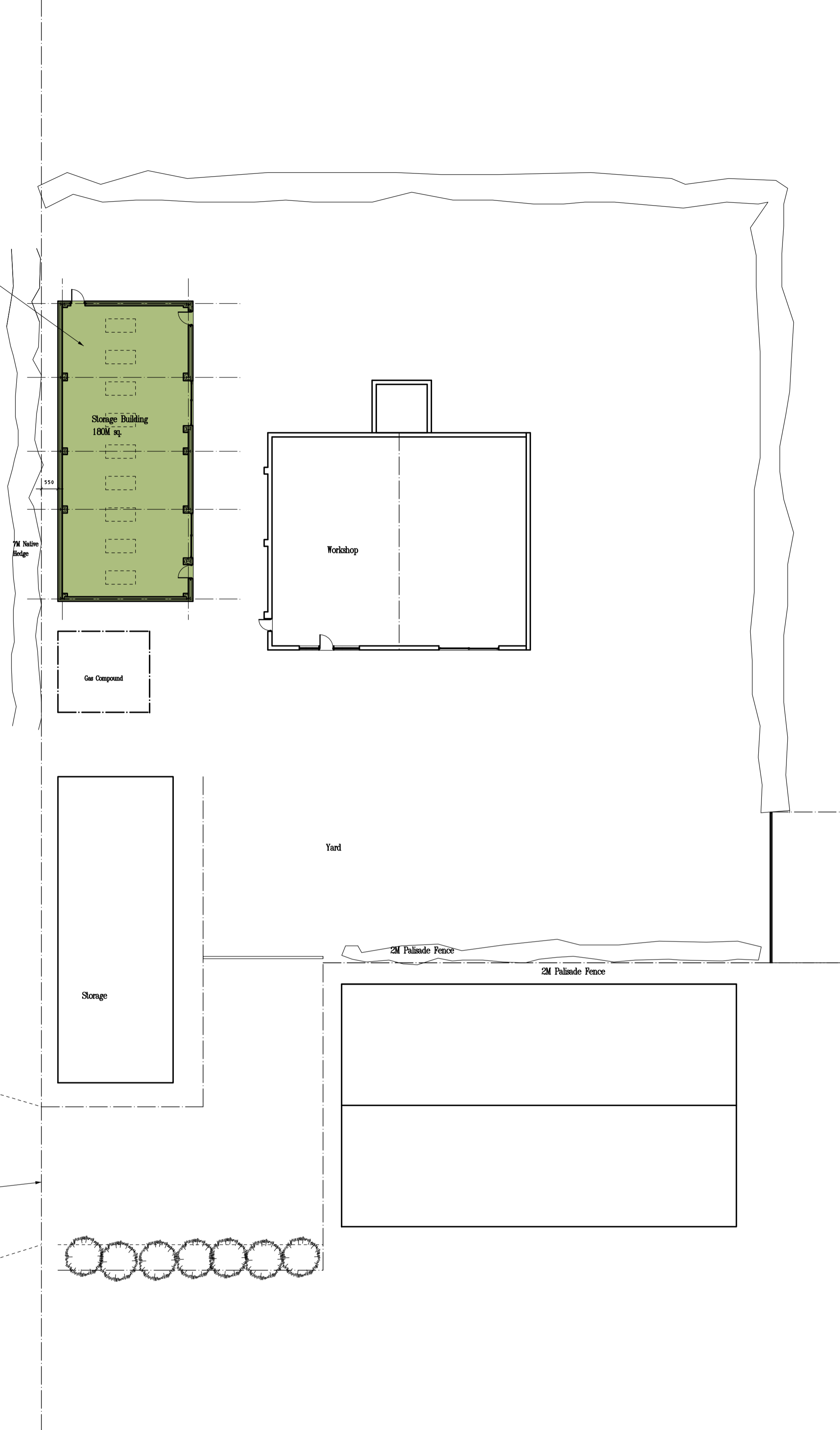
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PROPOSAL	REPLACEMENT STORAGE BUILDING at Wall Hill Farm Wall Hill Road, Coventry		
SCALE	DATE	DRG No:	REV:
1:100 1:50	October 2019	8872-03	

Proposed Replacement  
Storage Building

Wall Hill Road

Site Entrance



Block Plan  
Scale 1:200

CDM Regulations 2015 :  
Nothing in our appointment or provision of drawings shall be deemed to create any appointments as or obligations as a duty holder to Regulation 7 of the CDM Regulations 2015.

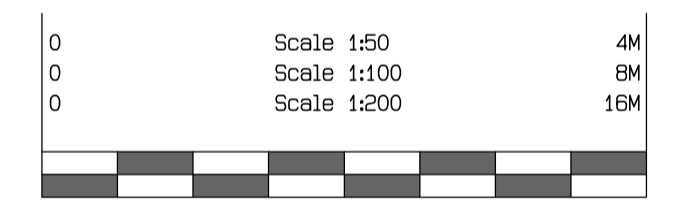
Smoke Detection to BS5839 Pt 6 2019 Min L3 standard. Smoke Detection to be mains operated with battery back-up. Smoke heads to be Max 7M from any kitchen and Living Room doors and 3M from any bedroom doors. A separate Conformance Certificate is to be provided by the Installation Contractor

TRUSS: If truss' form part of this drawing and the pitch is shown to match the existing roof pitch, then it is the responsibility of the CONTRACTOR to check on-site the exact pitch and wallplate to wallplate dimension prior to placing any order and to contact this office for confirmation as the exact pitch of the roof members can only be verified once the roof has been opened up. No responsibility will be accepted for orders being placed incorrectly.

NOTE  
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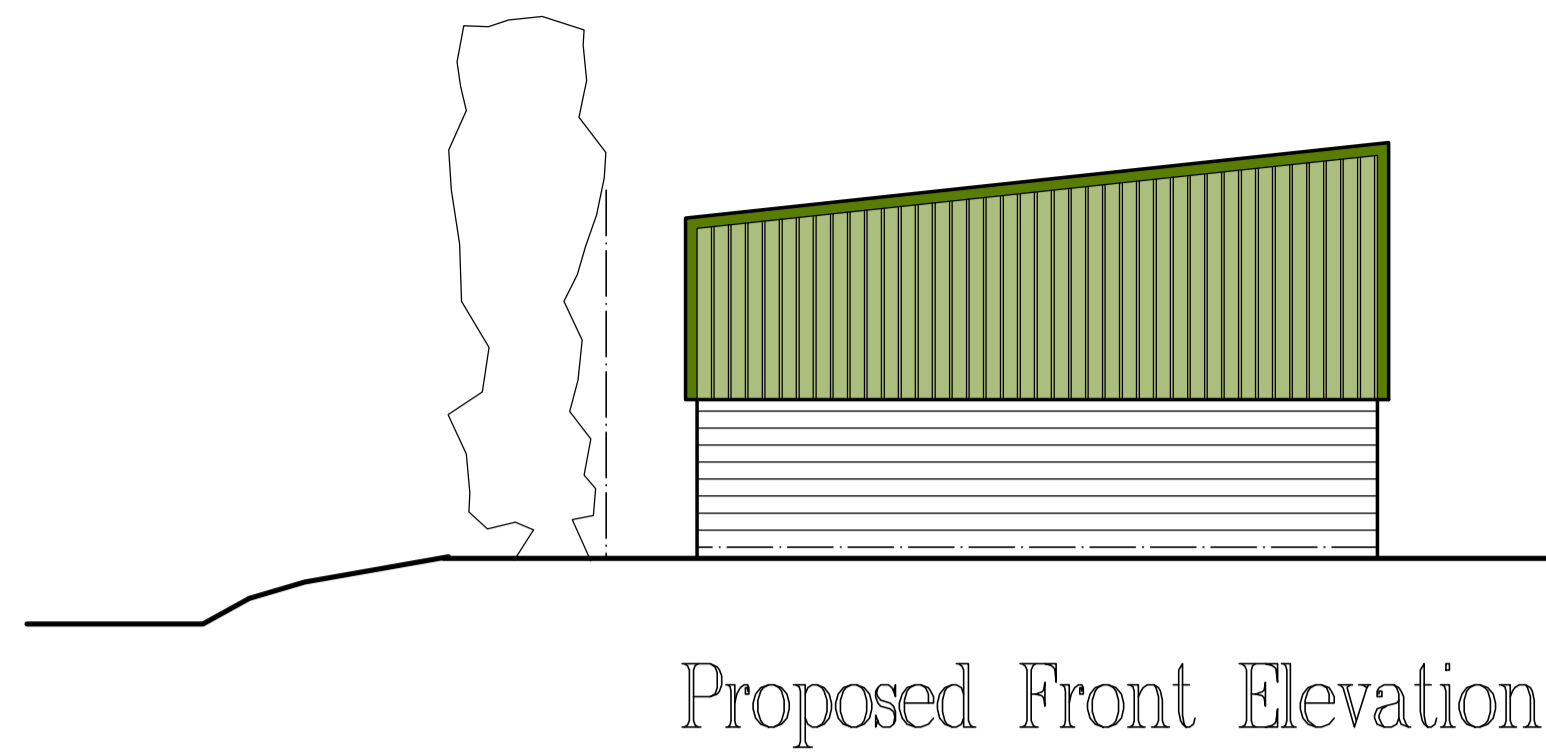
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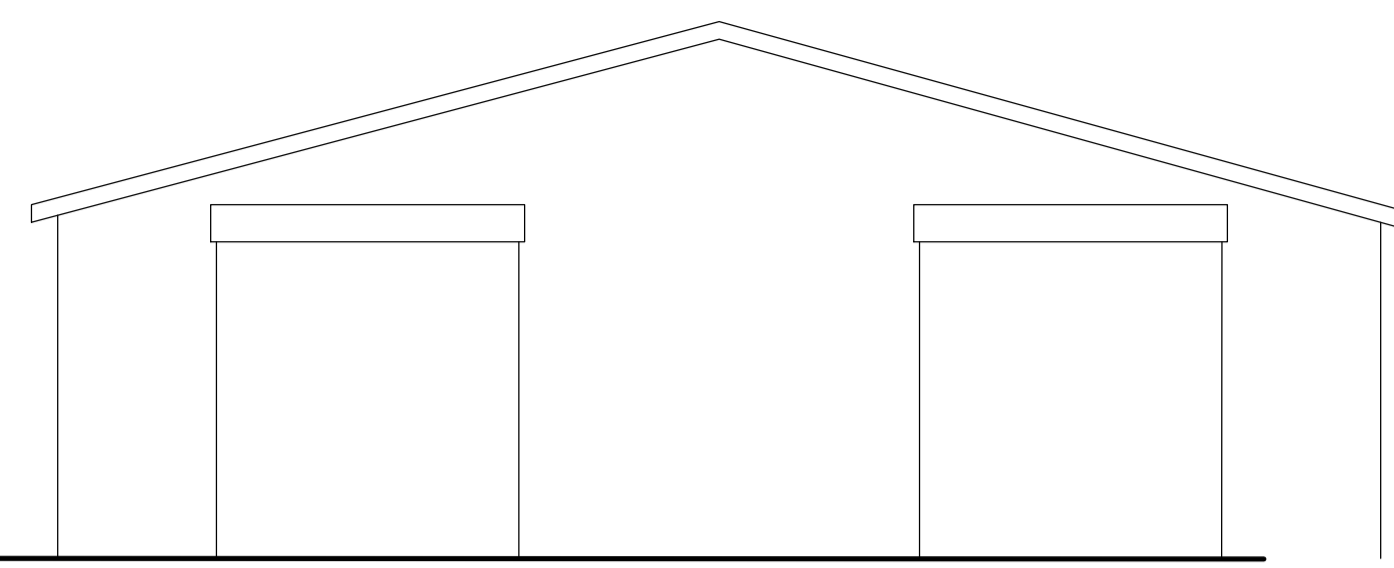
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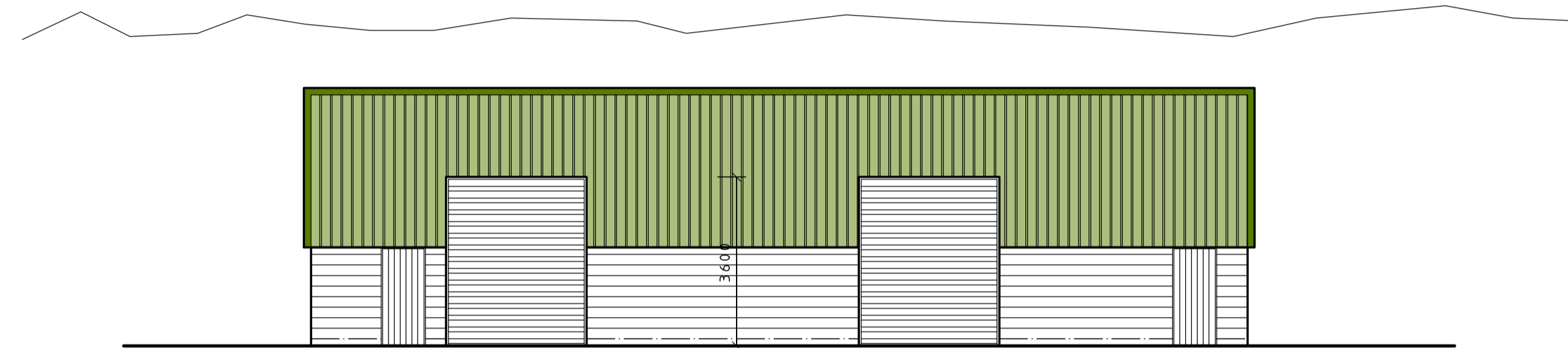
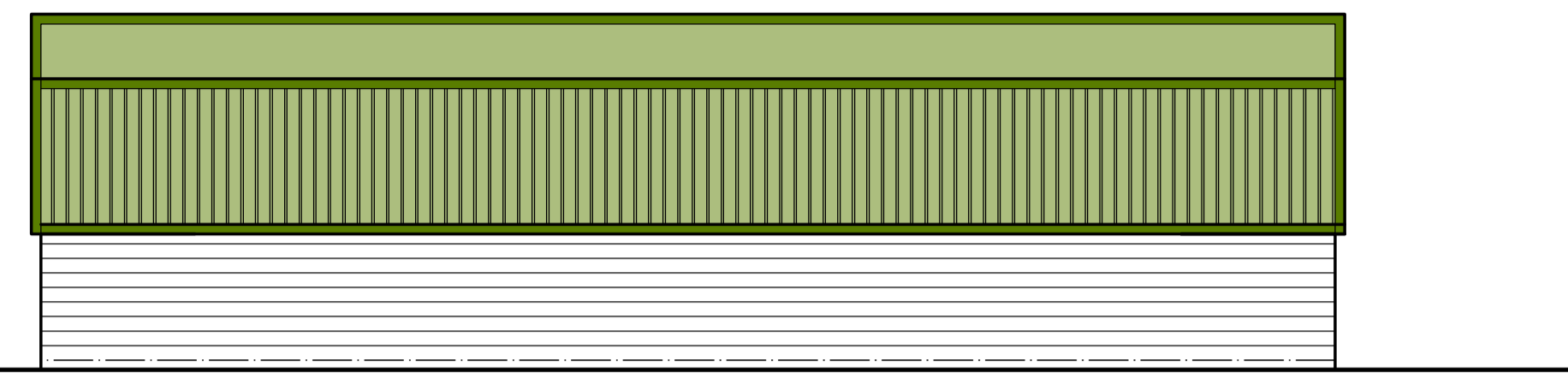
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SCALE	DATE	DRG No:	REV:
1:100 1:50	October 2019	8872-02	



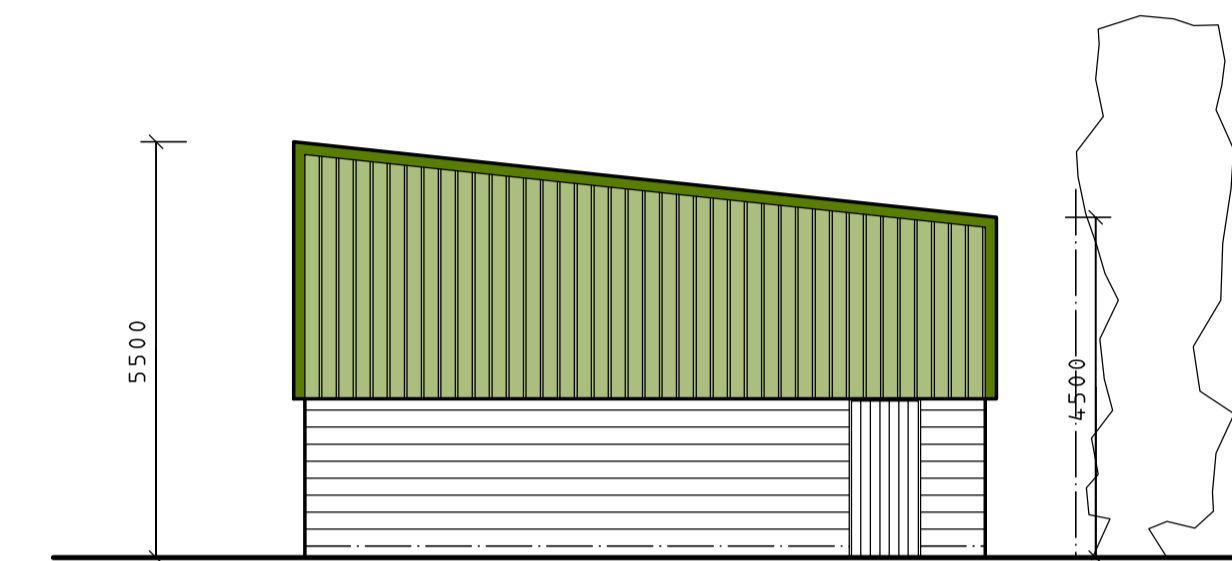
Proposed Front Elevation



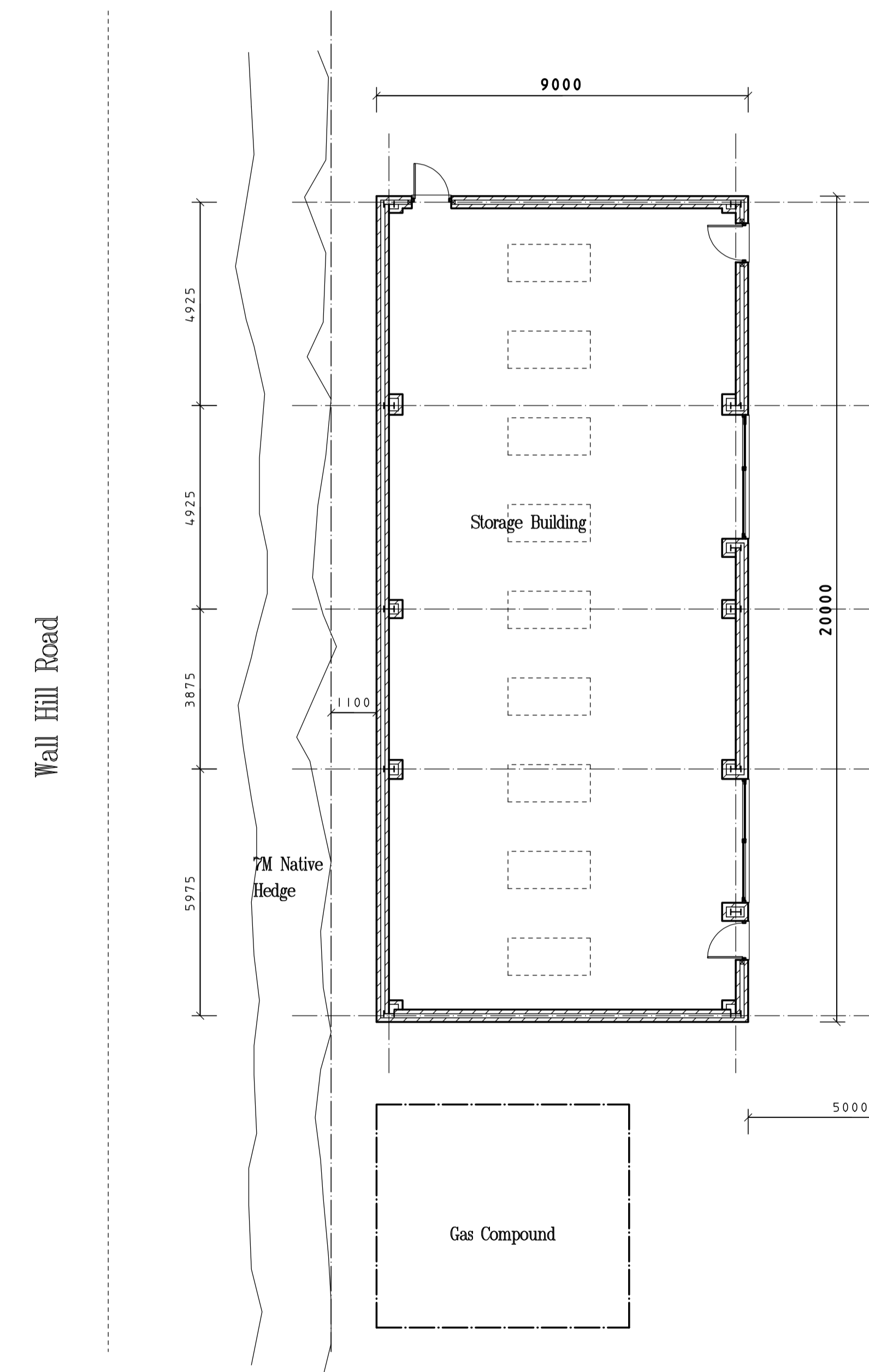
Proposed Side Elevation



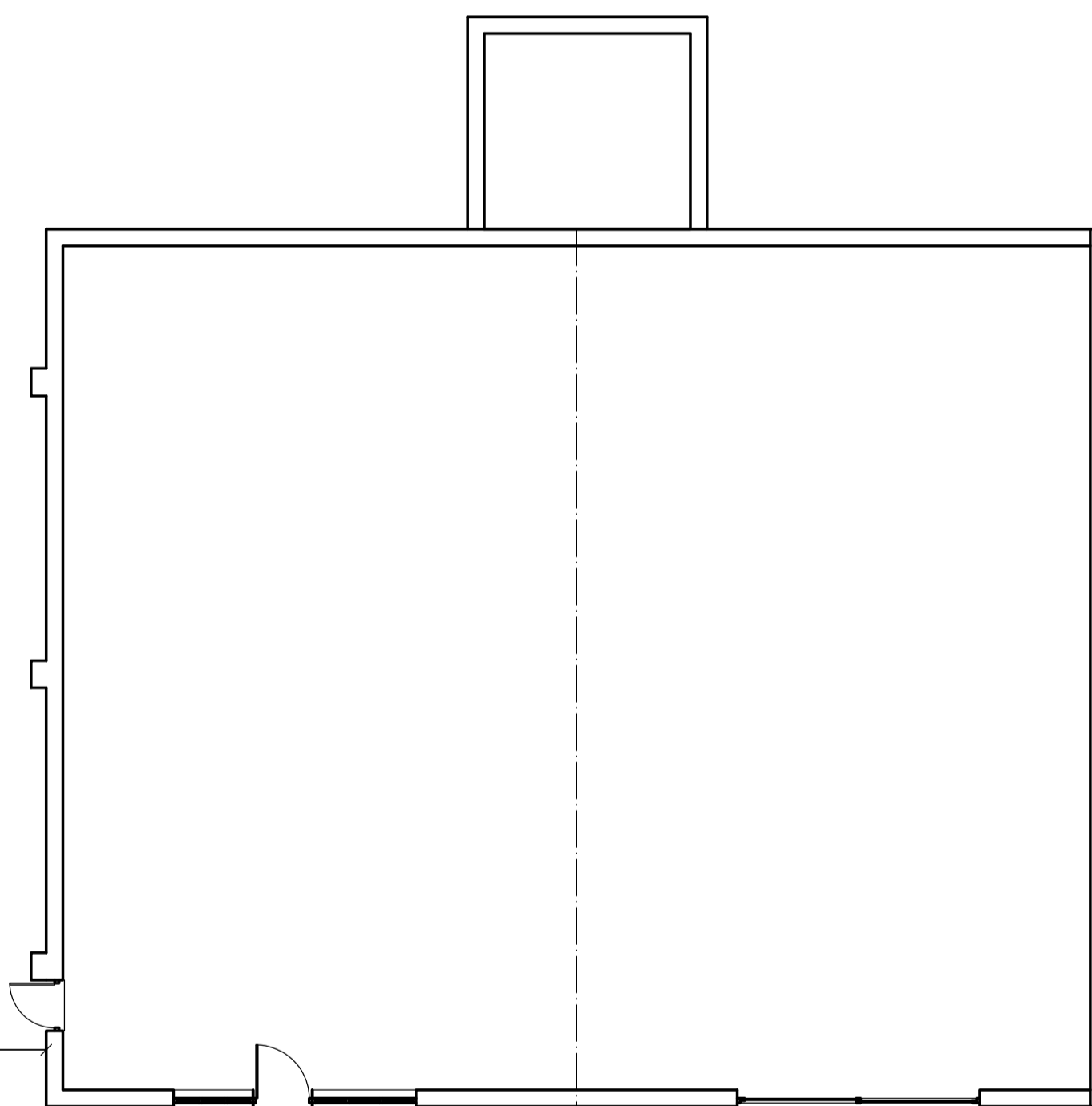
Proposed Side Elevation



Proposed Rear Elevation



Proposed Floor Plan



CDM Regulations 2015 :  
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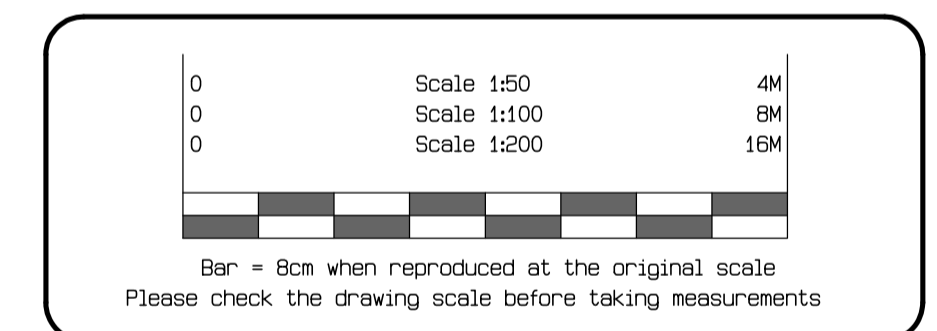
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CLIENT	[REDACTED]	Drg. Size	A1
PROPOSAL	REPLACEMENT STORAGE BUILDING at Wall Hill Farm Wall Hill Road, Coventry		
SCALE	DATE	DRG No:	REV:
1:100 1:50	October 2019	8872-01	

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<b>Planning Committee Report</b>	
<b>Planning Ref:</b>	FUL/2019/3094
<b>Site:</b>	3 Postbridge Road
<b>Ward:</b>	Cheylesmore
<b>Proposal:</b>	Demolition of existing single storey garage and bathroom, construction of a new three-bedroom dwelling including formation of new vehicle access and extension of dropped kerbs to existing vehicle access
<b>Case Officer:</b>	Gurdip Nagra

## SUMMARY

This report is for a full application for the erection of a new three-bedroom dwelling and has been assessed against the relevant local and national policies. In summary, the proposal is to divide the plot for no.3 Postbridge Road to allow for a new dwelling. The principle and scale of development is considered acceptable in this instance.

## BACKGROUND

This application has been recommended for approval. A total of five objections have been made opposing this proposal.

The site is located within an established residential area. The design of the new dwelling meets the requirements set out in the Supplementary Planning Guidance for New Residential Development 1991, adopted by Coventry City Council, which includes guidance for car parking, private gardens, boundary treatments and spaces between dwellings.

## KEY FACTS

<b>Reason for report to committee:</b>	Five objections received contrary to officer's recommendation
<b>Current use of site:</b>	Single residential property
<b>Proposed use of site:</b>	Side garden of existing dwelling to be subdivided to build a new three-bedroom dwelling

## RECOMMENDATION

Planning committee are recommended to grant planning permission subject to conditions.

## REASON FOR DECISION

- a) The proposal is acceptable in principle.
- b) The proposal will not adversely impact upon highway safety.
- c) The proposal will not adversely impact upon the amenity of neighbours.
- d) The proposal accords with Policies: DS3, H3, H9, DE1 and AC3 of the Coventry Local Plan 2016, together with the aims of the NPPF.

## BACKGROUND

### **APPLICATION PROPOSAL**

The application is for the demolition of an existing single storey garage and bathroom linked to the dwelling at no. 3. Splitting the existing plot into two and constructing a new three-bedroom dwelling including formation of new vehicle access and extension of dropped kerbs to existing vehicle access whilst retaining property no.3 on a smaller plot.

The design of the new dwelling is to match the external materials and details of the adjacent houses, which have been built with concrete interlocking roof tiles and facing bricks.

The existing Leylandii hedge to the boundary with Postbridge Road is to be removed to provide adequate visibility splays into the highway.

### **SITE DESCRIPTION**

The plot forms part of a large residential development, which appears to date from the 1950's. The dwellings along Postbridge Road vary in size and style and generally comprises two and three bedroom houses and bungalows.

A close boarded timber fence with a high leylandii hedge encloses the plot to the rear and side boundaries.

The property has been extended and includes an attached double garage, which is to be demolished to provide space for the proposed new dwelling.

The site is generally level.

### **PLANNING HISTORY**

There have been a number of historic planning applications on this site; the following are the most recent/relevant:

<b>Application Number</b>	<b>Description of Development</b>	<b>Decision and Date</b>
S/1957/0361	Use of land for housing purposes in accordance with a road layout submitted	Approved - 18/03/1957
S/1976/0882	Erection of extension over house garage	Approved - 06/02/1976
S/1982/0677	Proposed bungalow for residential use (outline)	Refused - 06/04/1982
R/2005/1516	Erection of single storey rear extensions and conversion of existing garage into living space	Approved - 12/08/2005
FUL/2019/2600	Demolition of existing single storey garage and bathroom to build a new dwelling including formation of new vehicle access and extension to existing vehicle access	Withdrawn – 04/12/2019

Application no. S/1982/0677 was refused as it would have been unsatisfactory having regard to the adverse effect on the amenities of the occupants of the existing nearby dwellings because of overlooking and visual intrusion. For this application it has been overcome with the siting of the proposed dwelling being in line with the neighbouring properties, resulting in no issues of overlooking or visual intrusion. The proposal exceeds all required separation distances from other properties.

The second reason for refusing application no. S/1982/0677 was that the site by reason of its size and disposition is inadequate for the proposed development and a satisfactory level of environmental amenity. This proposal is for a house with a smaller footprint set further forward on the plot and the issues of size and disposition have been overcome.

The third reason for refusing application no. S/1982/0677 was that the development would form an undesirable intrusion into the streetscene. This proposal is for a house that is in keeping with the characteristics of neighbouring properties and does not breach any established building lines on the road.

## **POLICY**

### **National Policy Guidance**

National Planning Policy Framework (NPPF). The NPPF sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system only to the extent that is relevant, proportionate and necessary to do so. The NPPF increases the focus on achieving high quality design and states that it is "fundamental to what the planning and development process should achieve".

The National Planning Practice Guidance (NPPG) adds further context to the NPPF and it is intended that the two documents are read together.

### **Local Policy Guidance**

The current local policy is provided within the Coventry Local Plan 2016, which was adopted by Coventry City Council on 6<sup>th</sup> December 2017. Relevant policy relating to this application is:

Policy DS3: Sustainable Development Policy

Policy H3: Provision of New Housing

Policy H9: Residential Density

Policy DE1 Ensuring High Quality Design

Policy AC3: Demand Management

### **Supplementary Planning Guidance/ Documents (SPG/ SPD):**

SPG Design Guidelines for New Residential Development

Appendix 5 Car and Cycle parking

## **CONSULTATION**

No Objections received from:

- Three Ward Councillors have not objected to the application.

No objections subject to conditions/contributions have been received from:

- Environmental Protection

- Highways

Objections have been received from:

- Five neighbours have objected to the proposal

Immediate neighbours and local councillors have been notified; a site notice was posted on 09/01/2020.

Five emails/letters of objection have been received, raising the following material planning considerations:

- Road safety, parking and increased traffic
- Outlook
- Pattern of development
- Loss of privacy
- Noise

Within the letters received the following non-material planning considerations were raised, these cannot be given due consideration in the planning process:

- a) Private access rights
- b) Business operating from address
- c) Services

Any further comments received will be reported within late representations.

## **APPRAISAL**

The main issues in determining this application are principle of development, the impact upon the character of the area, the impact upon neighbouring amenity, highway considerations and noise.

### **Principle of development**

Policy H3 states that new development must provide a high-quality residential environment which assists in delivering urban regeneration or creating sustainable communities and which overall enhances the built environment. A suitable residential environment includes safe and appropriate access, adequate amenity space and parking provision and be safe from pollution.

Therefore, the principle of demolishing the side garage to the existing house and dividing the plot to add a new dwelling is acceptable as there is sufficient land available. The proposal would result in a high quality residential environment and would contribute to a sustainable community. Therefore, the proposal complies with this aspect of Policy H3. The impact upon the built environment is discussed in more detail below.

### **Impact on visual amenity**

The National Planning Policy Framework, paragraph 127 states that "Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

The NPPF further states (at paragraph 130) “Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).”

The proposed new dwelling would consist of a three-bedroom detached house set on a corner plot. Whilst the character of the street includes predominantly semi-detached houses and detached bungalows, the dwelling is well designed and architecturally in keeping with the adjacent property at no.3 Postbridge Road in terms of size and scale. The new property would have gardens to the front, side and rear and the proposed house would sit on a similar building line to that of no.3 as well as respecting the building line further down Postbridge Road, most notably at no 5 and beyond. Two parking spaces are to be provided at the rear of the garden with a dropped kerb to be provided.

The design of the new dwelling is to match the external materials and details of the adjacent houses, which have been built with concrete interlocking roof tiles and facing bricks. The proposed new house will assimilate into the area and will not appear as an incongruous feature within the street scene.

The proposal would result in a high-quality residential environment. Therefore, the proposal complies with Policy DE1 of the Coventry Local Plan 2016 and the relevant paragraphs of the NPPF.

### **Impact on residential amenity**

Policy H9 requires new development to be designed and positioned so it does not adversely affect the amenities of the occupiers of neighbouring properties. The Supplementary Planning Guidance ‘Extending your Home’ states new buildings should not breach a 45-degree sightline taken from the middle of the nearest habitable room windows taken from the neighbouring property.

The proposed new house is two storeys similar to that of the house at no.3 and is positioned in line with both properties no. 1 and 3 on the site. The positioning of the building does not impact on the building line in relation to property no. 5 and fits in well on the corner plot within the streetscene. The proposed new house will not have a detrimental impact on the occupiers of the neighbouring properties through increased visual intrusion, loss of light and increased loss of privacy and overlooking.

There are no noise issues arising from this proposal as it is for a residential property within a residential street. Environmental Protection have had made no objections or provided any informative in relation to noise.

### **Highway considerations**

Policy AC3 of the Local Plan acknowledges that the provision of car parking can influence occurrences of inappropriate on-street parking which can block access routes for emergency, refuse and delivery vehicles, block footways preventing access for pedestrians, reduce visibility at junctions and impact negatively on the street scene. Proposals for the provision of car parking associated with new development will be assessed on the basis of parking standards set out in Appendix 5. The car parking standards also include requirements for the provision of electric car charging and cycle parking infrastructure.

Parking requirement will be met for property no.3 with three parking spaces and the newly proposed dwelling with two car parking spaces to be provided.

Highways raise no objection to the proposal.

### **Flood Risk**

Site is not in a flood risk zone.

### **Equality Implications**

Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

There are no known equality implications arising directly from this development.

## **Conclusion**

The proposed development is considered to be acceptable in principle and will not result in any significant impact upon neighbour amenity and highway safety, subject to relevant conditions and contributions. The reason for Coventry City Council granting planning permission is because the development is in accordance with: Policies DS3, H3, H9, DE1 and AC3 of the Coventry Local Plan 2016, together with the aims of the NPPF.

## **CONDITIONS:/REASON**

1. The development hereby permitted shall begin no later than three years from the date of this permission.

**Reason:** *To comply with Section 91 of the Town and Country Planning Act 1990.*

2. The development hereby permitted shall be carried out in accordance with the following approved documents: Block Plan drwg no B19/22/BL01D, Location Plan drwg B19/22/L01A, B19/22/PRS01 and B19/22/PRS02.

**Reason:** *To ensure a satisfactory standard of appearance of the development in the interests of the amenities of the locality in accordance with Policy DE1 of the Coventry Local Plan 2016.*

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that order with or without modification) the window to be formed in the 1st floor of the south.east side facing elevation of the extension hereby permitted shall only be glazed or re-glazed with obscure glass and any opening part of any window shall be at least 1.7m above the floor of any room in which the window is installed.

**Reason:** *To ensure the amenities of adjoining properties are not detrimentally affected through overlooking or loss of privacy in accordance with Policies DE1 and H5 of the Coventry Local Plan 2016*

4. The house shall not be occupied unless and until the car parking indicated on the approved drawing has been provided and thereafter those areas shall be kept available for such use at all times.

**Reason:** *To ensure adequate off-street car parking in the interests of both highway safety and visual amenity in accordance with Policies AC1 and AC3 of the Coventry Local Plan 2016.*

5. Any gas boilers installed on site shall have a dry NOx emission rate of no more than 40mg/kWh. One electric vehicle recharging point per dwelling shall be provided prior to occupation of the property & shall be kept available for such use by residents at all times. A minimum of one electric vehicle recharging point shall be provided.

**Reason:** *To mitigate the impacts of development on air quality in accordance with Policy DS3 of the Coventry Local Plan 2016 and the aims and the objectives of the NPPF.*

6. A method statement detailing the control of emissions to air during the construction

phase should be submitted to and approved in writing by the Local Planning Authority prior to the commencement of works. Such a method statement should be in-line with the Best Practice Guidance entitled 'The control of dust and emissions from construction and demolition' produced by the Greater London Authority and London Councils. This statement should also include proposed hours of works.

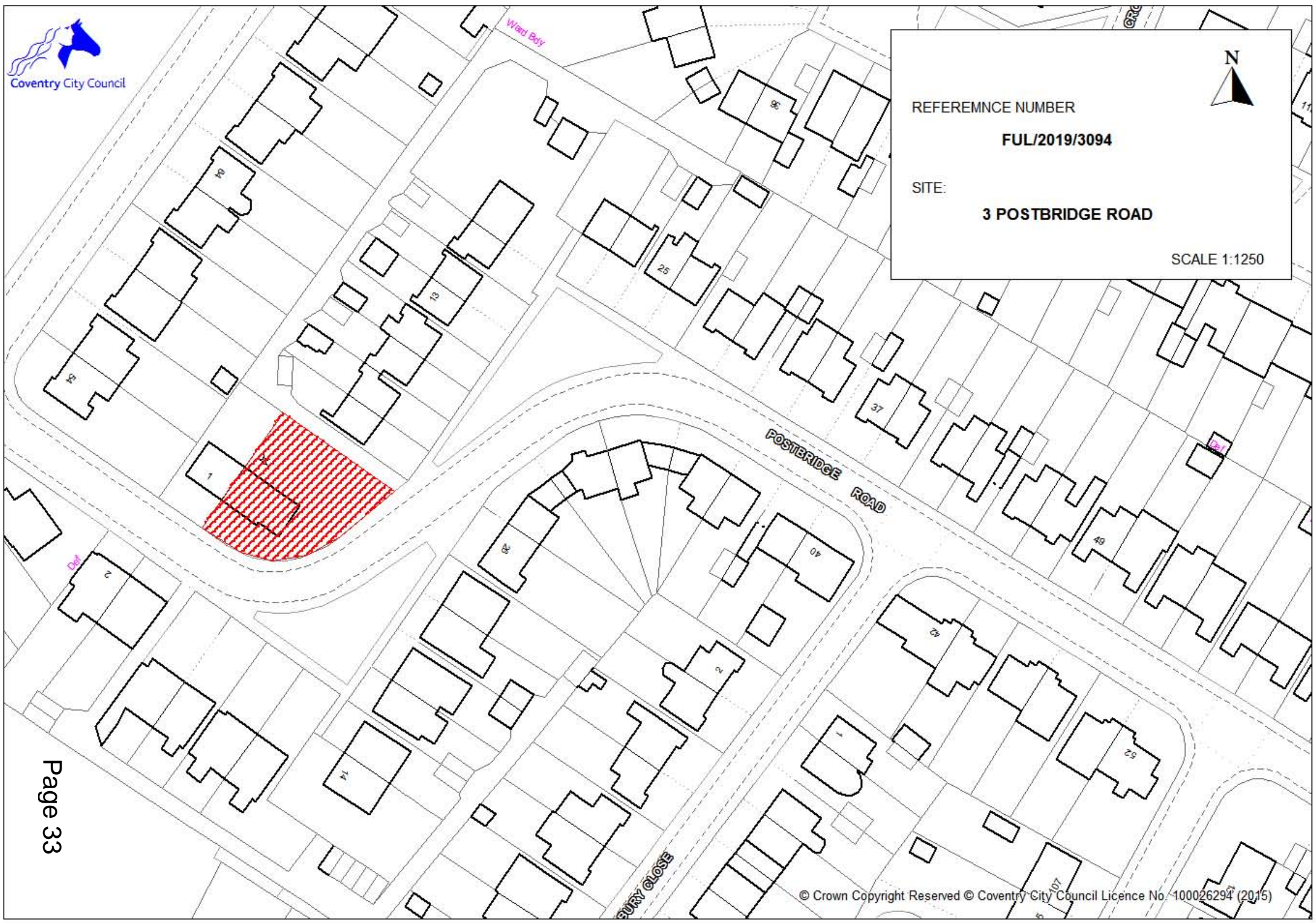

***Reason:*** *To protect the amenity of the occupiers of neighbouring residential occupiers in accordance with Policy EM7 of the Coventry Local Plan 2016.*

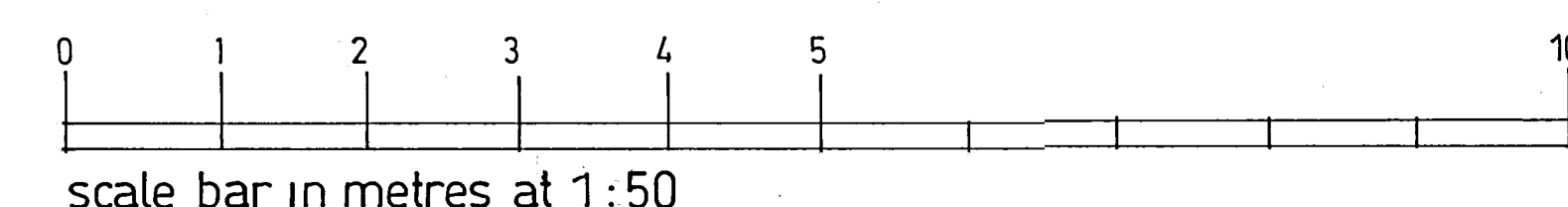
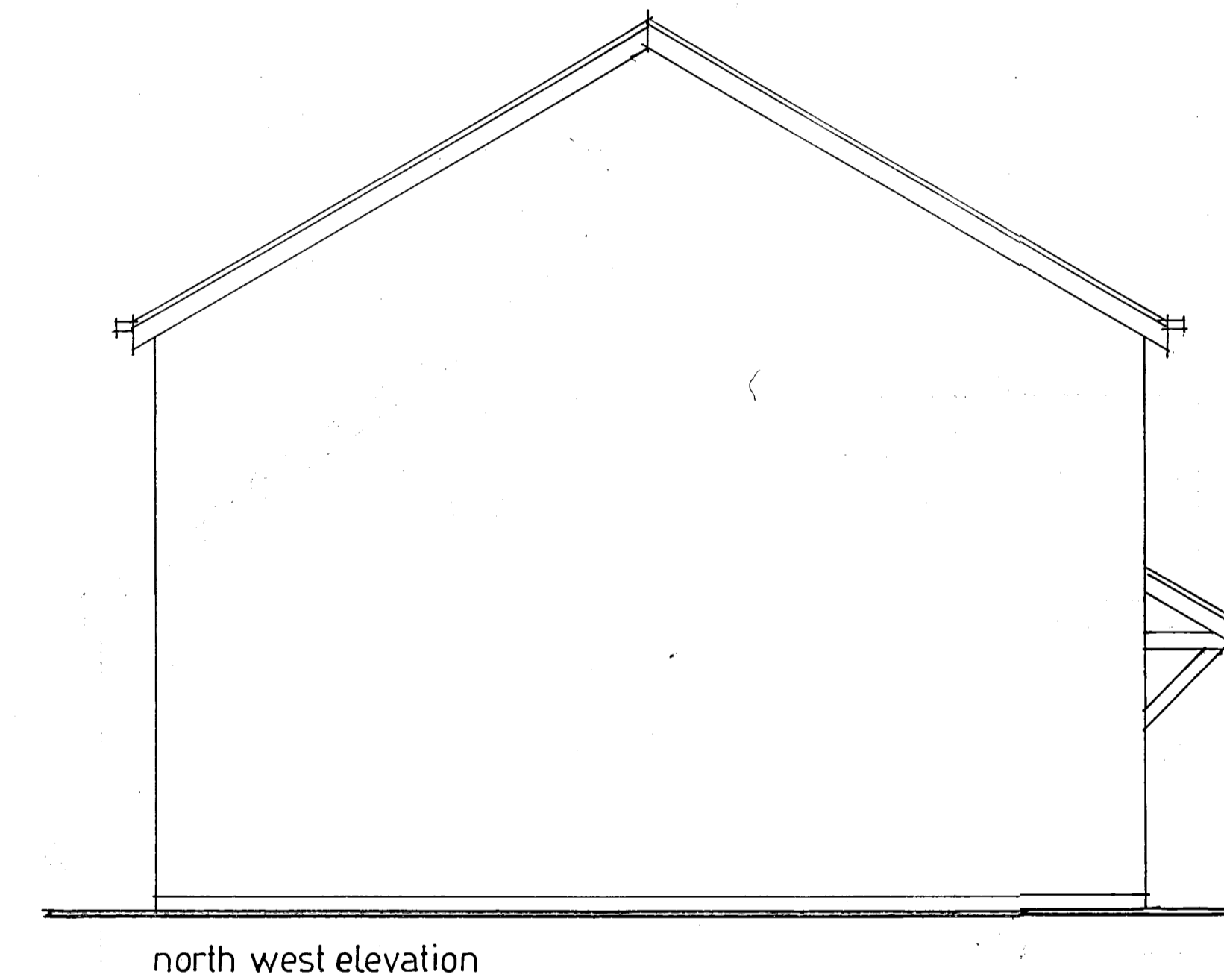
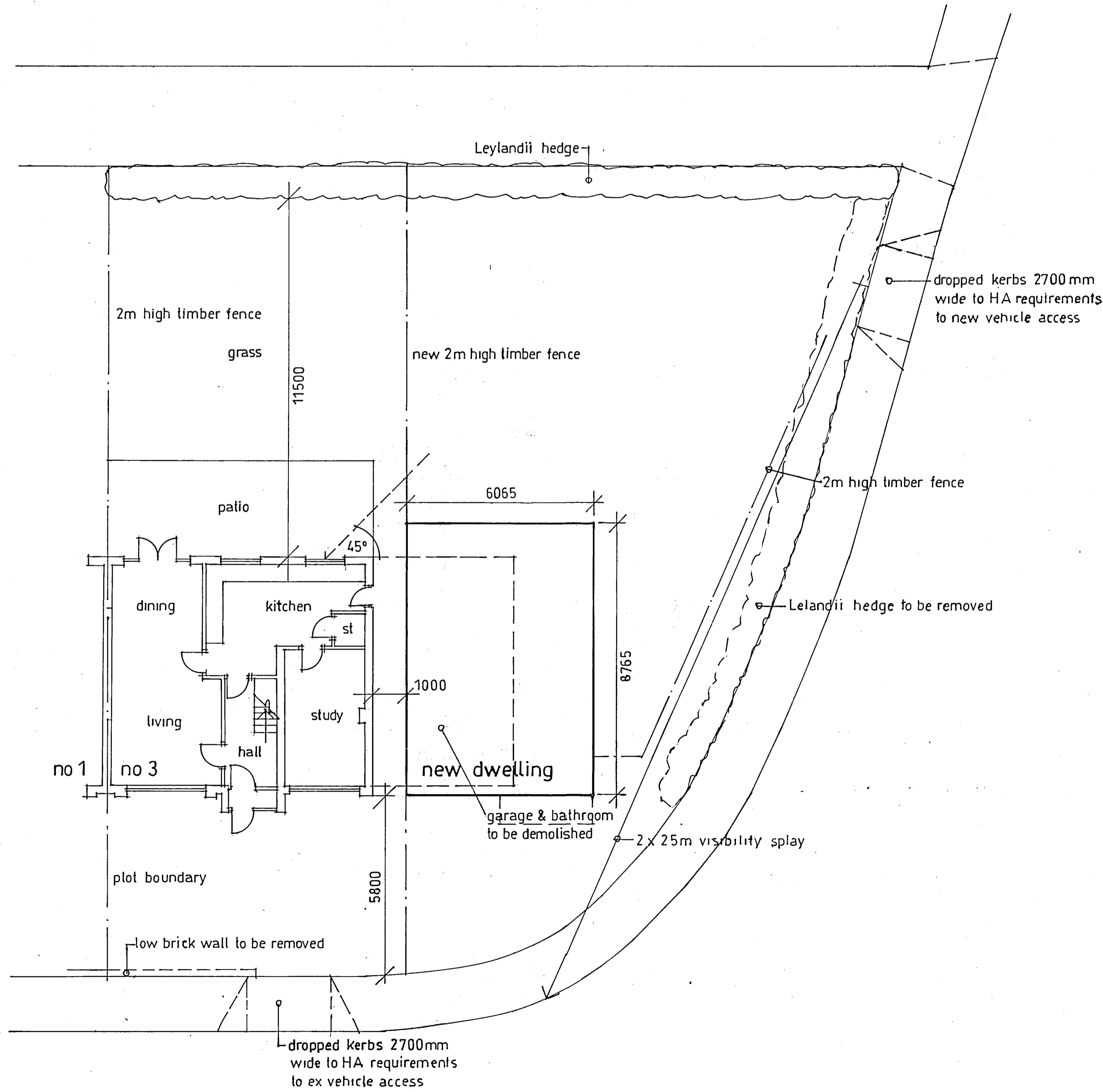
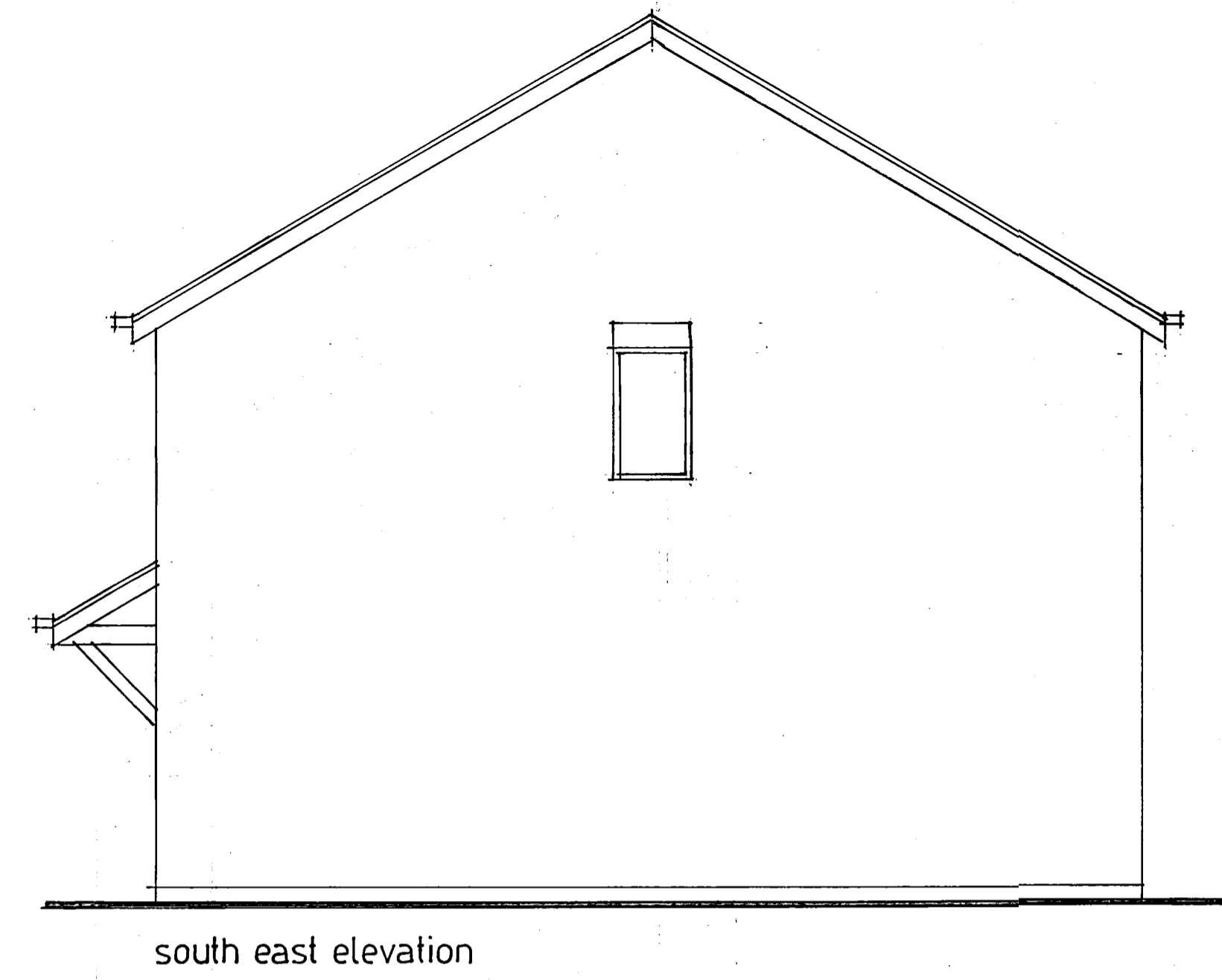


REFERENCE NUMBER  
**FUL/2019/3094**

SITE:  
**3 POSTBRIDGE ROAD**

SCALE 1:1250





NOTES

REVISIONS

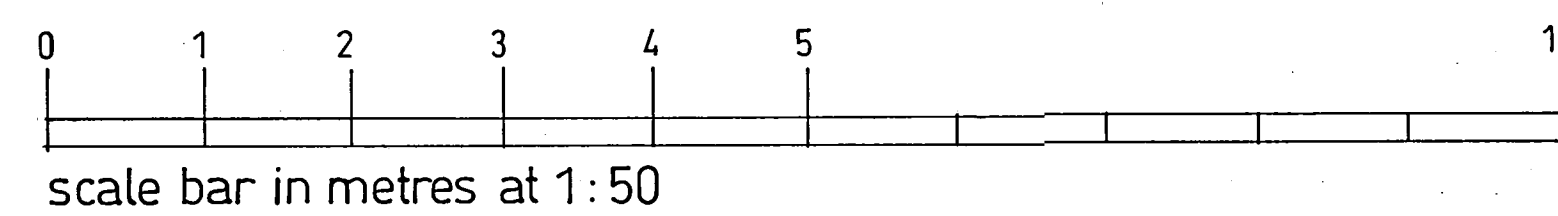
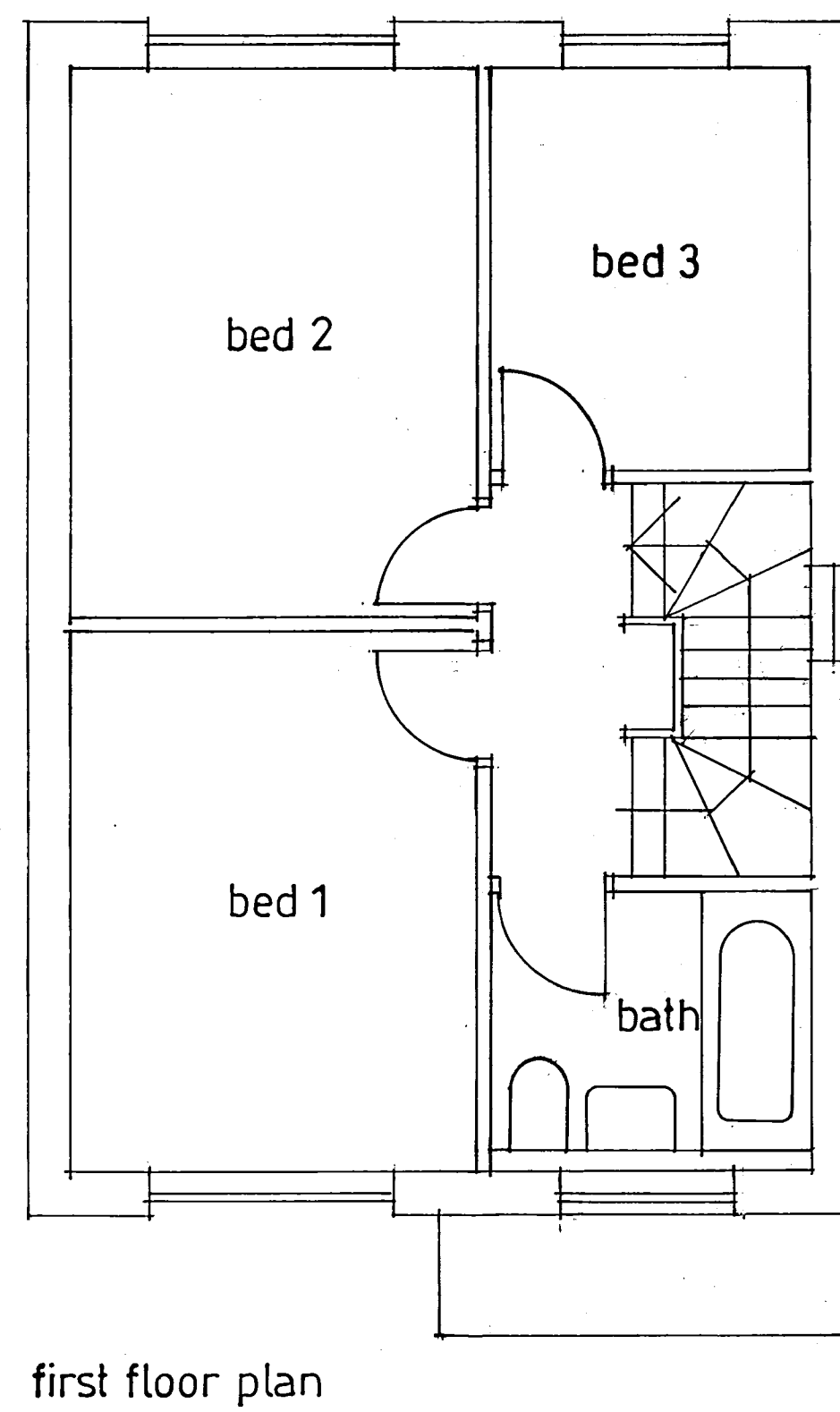
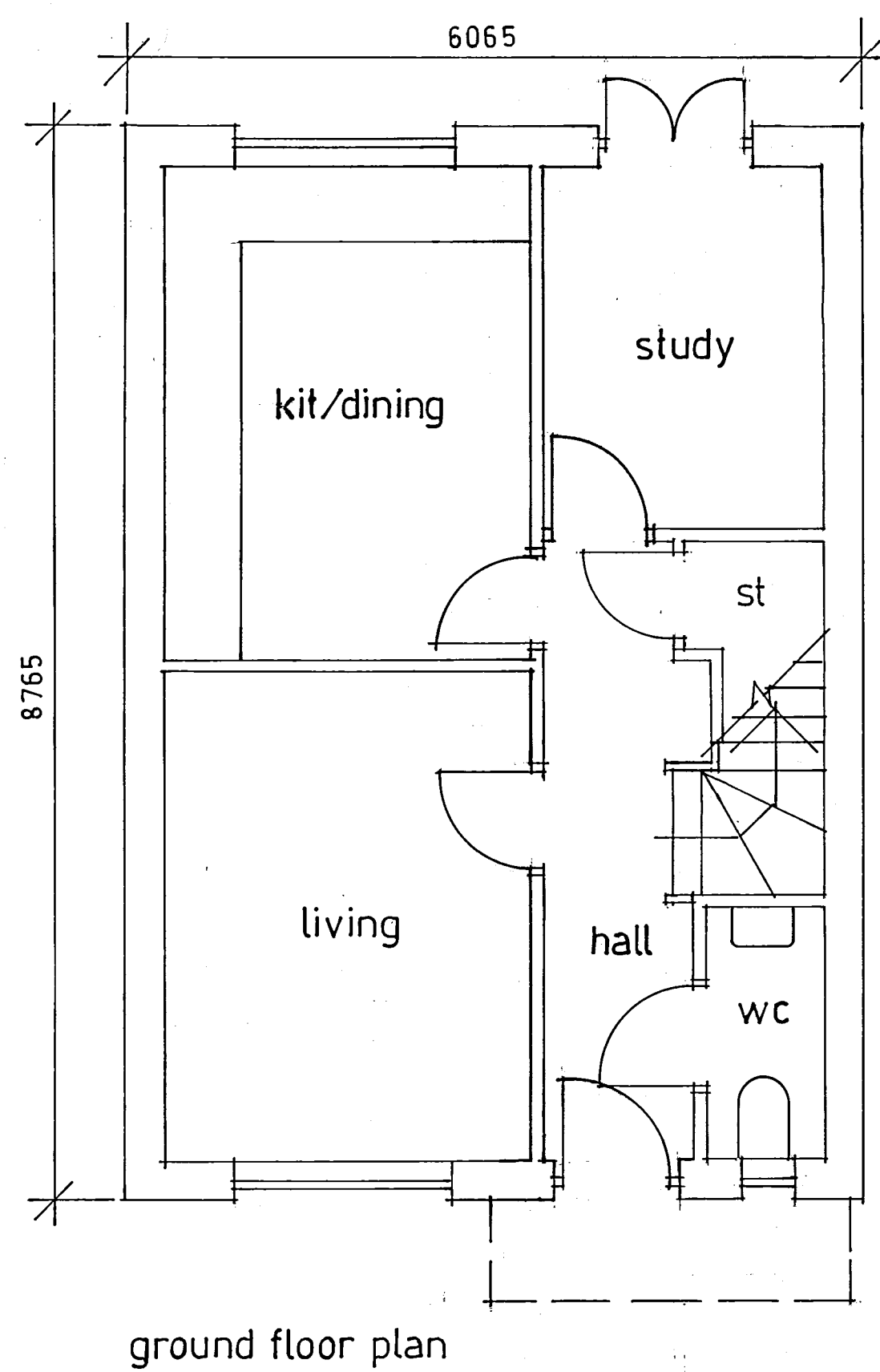
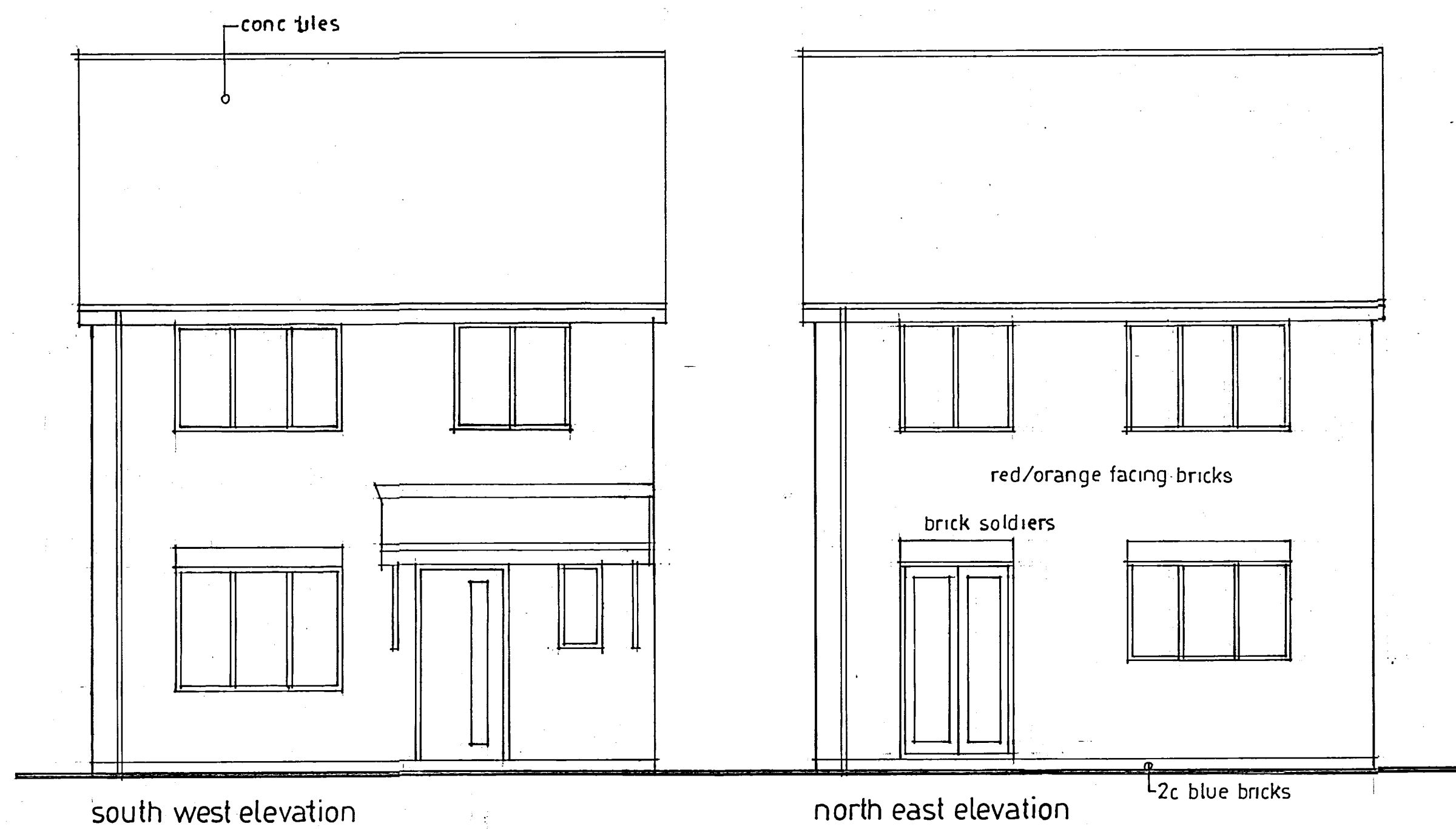
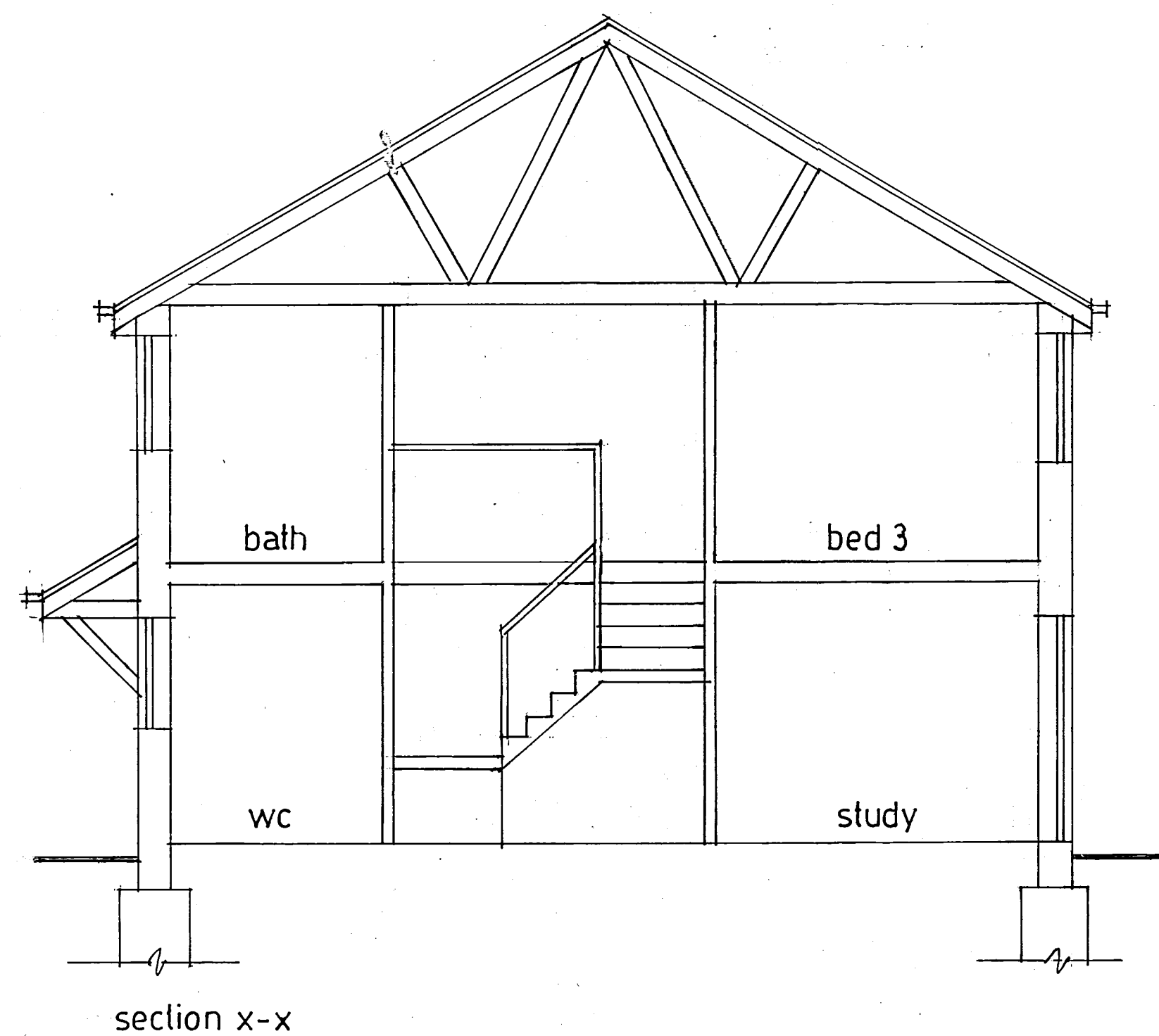
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3 POSTBRIDGE ROAD  
STIVICHALL COVENTRY

REVISED SCHEME

1:50/1:100 at A1 9 12 19

db  
David F Barnes Dip Arch RIBA  
14 Pyeharps Road Burbage LE10 2JE  
Telephone 01455 633410

B19/22/PRS02



REVISIONS

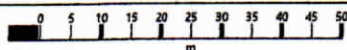
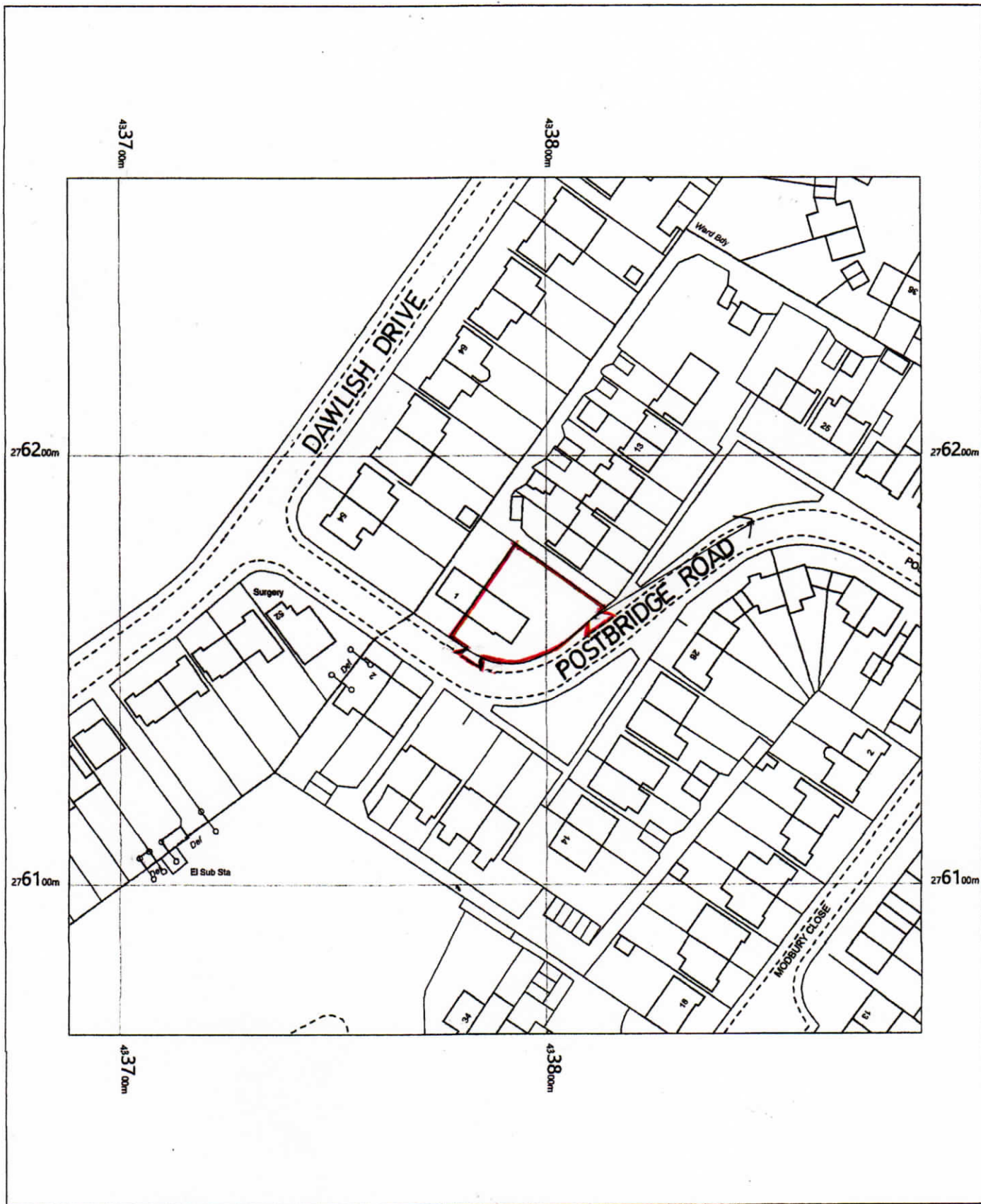
NEW DWELLING ADJ TO  
3 POSTBRIDGE ROAD  
STIVICHALL COVENTRY

REVISED SCHEME

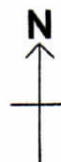
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db  
David FBarnes Dip Arch RIBA  
14 Pyeharps Road Burbage LE102JE  
Telephone 01455 633410

B19/22/PRS01



drwg no B19/22/L01A



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OS MasterMap 1250/2500/10000 scale  
Wednesday, August 21, 2019, ID: JEW-00822663  
maps.johnwright.com

1:1250 scale print at A4, Centre: 433788 E, 276165 N

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<b>Planning Committee Report</b>	
<b>Planning Ref:</b>	DC/2019/3189
<b>Site:</b>	Scots Lane
<b>Ward:</b>	Bablake
<b>Proposal:</b>	Submission of details to discharge condition 15 (drainage details) imposed on planning permission reference S73/2018/0812 (variation of OUT/2016/2918 to remove/vary condition No. 6 (in part, 6(i) only) to exclude pedestrians/cycle link between the northern part of the site and the bus stop on Holloway Field) granted on 19th June 2018 for residential development of up to 70 dwellings and landscaping with associated public open space and car parking.
<b>Case Officer:</b>	Shamim Chowdhury

## SUMMARY

This application provides details of an alternative drainage scheme to that which was approved by the Planning Committee in May 2019 for 69 houses on the former Coundon Reservoir on Scots Lane. The drainage proposal demonstrates how the foul sewage and surface/storm water of the residential development on site has been re-arranged. The submitted drainage scheme shows that the sewer and surface water would be disposed through a combined sewer, which would be connected to an existing combined sewer. In the last approved scheme, the surface water was discharging to a ditch, but now the developer is proposing the surface water to discharge to the combined sewer. The foul sewer remains as approved in the last discharge of condition application. The new combined sewer runs under the Radford Road allotment gardens and has connected to an existing combined sewer. The developer has obtained the necessary easement from the land owner (Council's Property Services) for the implementation of the scheme. The Local Flood Authority and Severn Trent Water are satisfied with the proposed scheme and have recommended discharging the drainage condition.

## BACKGROUND

The Planning Committee granted an outline planning permission for up to 70 houses in May 2017. A subsequent reserved matters application was reviewed by the Planning Committee for 69 houses and granted permission in June 2018. A section 73 application has also been granted by the Planning Committee in June 2018 to exclude the proposed pedestrian/cycle link over the adjacent Village Green on Holloway Field. The drainage condition (No. 15) imposed on the outline permission (OUT/2016/2918) and Section 73 application (S73/2018/0812), requires the developer to submit drainage details and obtain approval from the Planning Authority prior to occupation of the dwelling houses. On May 2019, the planning committee approved a drainage scheme comprising surface water drainage along the Village Green boundary using an existing ditch and to run foul sewer under the allotment gardens. Subsequent to that decision, the developer has been unable to secure an easement to run surface water through the existing ditch and subsequently failed to implement the agreed drainage scheme. Therefore, the current drainage scheme is an alternative option and from the planning point of view the developer can seek to discharge a condition with alternative strategies but only one approved scheme has to be implemented. Although the current drainage

scheme has received no objections from the residents, this application has been brought back before the Planning Committee due to committee's previous requests to consider ongoing matters relating to drainage on this particular site and given the residents' ongoing interest in the sustainable delivery of the site. Generally, discharge of condition applications do not involve public consultation and are normally determined by the officers under delegated authority.

**KEY FACTS**

<b>Reason for report to committee:</b>	The current scheme is different to that which was approved by the Planning Committee to discharge the same drainage condition
<b>Current use of site:</b>	Residential development under construction
<b>Proposed use of site:</b>	Residential dwellings

**RECOMMENDATION**

Planning committee are recommended to discharge the drainage condition (condition No. 15) imposed on planning permission ref. OUT/2016/2918 and subsequent variation of condition application, Ref. S73/2018/0812.

**REASON FOR DECISION**

- The submitted drainage strategy is satisfactory for the proposed development at Scots Lane, which is compliant with national and local policy and design standards.
- No surface water flooding is predicted for the site. The proposed drainage scheme for the residential development would minimise the risk of surface water flooding on and off the site.
- The foul drainage scheme is satisfactory for the proposed development and is acceptable to Severn Trent Water and Council's Flood Risk and Drainage Team.
- The proposal will not adversely impact upon the amenity of neighbours.
- The drainage scheme accords with Policies: DS3, EM1, EM4, EM5 and DE1 of the Coventry Local Plan 2016, together with the aims of the NPPF.

## BACKGROUND

### **APPLICATION PROPOSAL**

This application seeks to discharge condition No.15 which was imposed on planning permission OUT/2016/2918 and subsequent variation of condition application, Ref. S73/2018/0812 granted in 2017 and 2018 respectively for the residential development with associated access road and landscaping. The planning condition required the developer to submit details of drainage works to the local planning authority for approval.

### **SITE DESCRIPTION**

The application site was the former Coundon Reservoir which was decommissioned and cleared in 2011 and has re-naturalised over time. The proposed development site adjoins Radford Road Allotment gardens to the east and a village green to the northeast corner between No. 26 and No. 50 Holloway Field. The site is bound to the north by residential properties on Holloway Field and to the south by a covered reservoir operated by Severn Trent Water and beyond that by residential properties on Christchurch Road. Bablake School Playing Fields is to the west opposite the application site. A ditch runs from the northern end of the site along the rear boundary/garden of the houses (no 50 -84, evens) on Holloway Field and the southeast boundary of the Village Green. The site is located in Flood Zone 1. The general character of the area is predominantly residential with no specific designation or interest such as conservation area or Local Wildlife site.

### **PLANNING HISTORY**

There have been a number of historic planning applications on this site; the following are the most recent/relevant:

Application Number	Description of Development	Decision and Date
OUT/2016/2918	Outline application with all matters reserved except for means of access, for residential development of up to 70 dwellings and landscaping with associated public open space and car parking	Approved 11/05/2017
RMM/2018/0316	Reserved matters application for the erection of 69 houses, landscaping, associated public open space and car parking served by new access onto Scots Lane (serving plots 4-69) and upgrade/improvements to existing access (serving plots 1-3). Submission of details pursuant to outline planning permission OUT/2016/2918	Approved 14/06/2018
S73/2018/0812	Removal / Variation of condition No. 6 (in part, 6(i) only) to exclude pedestrians/cycle link between the northern part of the site and the bus stop on Holloway Field: imposed upon planning permission OUT/2016/2918	Approved 14/06/2018

	for 'Outline application with all matters reserved except for means of access, for residential development of up to 70 dwellings and landscaping with associated public open space and car parking'.	
DC/2018/0284	Submission of details to discharge condition No.10 - details of site investigation and risk assessment, condition No. 11 and 12 - details of remediation and implementation scheme imposed on planning permission reference OUT/2016/2918 determined 11 May 2017 (decision notice issued 29/09/17) for an outline application with all matters reserved except for means of access, for residential development of up to 70 dwellings and landscaping with associated public open space and car parking.	Approved 22/03/2018
DC/2018/0318	Submission details to discharge condition No. 8 - Construction and Ecological Management Plan imposed on planning permission OUT/2016/2918 determined 11 May 2017 (decision notice issued 29/09/17) for an outline application with all matters reserved except for means of access, for residential development of up to 70 dwellings and landscaping with associated public open space and car parking.	Approved 22/03/2018
DC/2018/1049	Submission of details to discharge condition No. 6(iii) Air Quality Assessment and mitigation measures and condition No. 7 details of construction method statement, imposed on planning permission OUT/2016/2918 for Outline application with all matters reserved except for means of access, for residential development of up to 70 dwellings and landscaping with associated public open space and car parking granted on 11/05/2017.	Approved 24/05/2018
DC/2019/0218	Submission of details to discharge condition19: Local Skills and Employment Action Plan and condition	Approved 19/03/2019



	20: Variable Message Warning Sign imposed on planning permission OUT/2016/2918 for Outline application with all matters reserved except for means of access, for residential development of up to 70 dwellings and landscaping with associated public open space and car parking granted on 11/05/2017.	
DC/2019/3424	Submission of details to discharge condition 15 (Flood Risk Assessment and Drainage Details) imposed on planning permission S73/2018/0812 Removal / Variation of condition No. 6 (in part, 6(i) only) to exclude pedestrians/cycle link between the northern part of the site and the bus stop on Holloway Field: imposed upon planning permission OUT/2016/2918 for 'Outline application with all matters reserved except for means of access, for residential development of up to 70 dwellings and landscaping with associated public open space and car parking' granted on 14/06/2018.	Approved 09/05/2019
FUL/2019/1269	Erection of four dwellings together with associated parking and landscaping	Refused 01/08/2019

## **POLICY**

### **National Policy Guidance**

National Planning Policy Framework (NPPF). The revised NPPF published in February 2019 sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system only to the extent that is relevant, proportionate and necessary to do so. In assessing flood risk from a proposed development in the determination of a planning application, the NPPF suggests that the local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment.

The National Planning Practice Guidance (NPPG) adds further context to the NPPF and it is intended that the two documents are read together.

### **Local Policy Guidance**

The current local policy is provided within the Coventry Local Plan 2016, which was adopted by Coventry City Council on 6th December 2017. Relevant policy relating to this application is:

Policy DS3: Sustainable Development Policy

Policy DE1 Ensuring High Quality Design

Policy EM1: Planning for Climate Change Adaptation

Policy EM4 Flood Risk Management  
Policy EM5 Sustainable Drainage Systems (SuDS)

**Supplementary Planning Guidance/ Documents (SPG/ SPD):**  
SPD Delivering a More Sustainable City

## **CONSULTATION**

Severn Trent Water – No objection and recommended condition to be discharged.

Flood Risk and Drainage – satisfied with the submitted drainage scheme and recommended to discharge the condition.

Immediate neighbours and local councillors have been notified; four site notices were posted around the site.

Two comments were received including one from a local Councillor. They did not object but raised concern about the drainage provision of few houses which have already been constructed and occupied without implementing the approved drainage scheme.

Any further comments received will be reported within late representations.

## **APPRAISAL**

The main issues in determining this application are whether the proposed drainage scheme will allow for satisfactory drainage of the site and whether the proposed foul sewer is capable of serving the development.

### **Flood Risk and Drainage**

Policy EM4 states that all major developments must be assessed in respect of the level of flood risk from all sources. If development in areas at risk of flooding is the only option following the application of the sequential test, it will only be permitted where the criteria set out in Policy EM4 are met. However, the application site is not within flood zone 2 or 3, i.e. not susceptible to flooding, therefore, a sequential test was not required.

The drainage scheme shows that the surface water which would result from the roofs of the houses and associated hard surfaces would drain towards the northeast corner of the site where the surface water drain connects to the sewer line before it runs away from the site as combined sewer. The surface water drainage pipe would also be connected to the proposed balancing pond through a flow control chamber. The balancing pond would be part of the surface water drainage scheme which would help to control the flow of water into the combined sewer to a maximum level (to a flow of 6.3litre/second). The balancing pond is to help to minimise risk of surface water flooding on and adjacent the site. The surface water runoff rate from the site will be restricted to a maximum of 6.3l/s which is equivalent to the QBar greenfield rate minus 20%. The Council's Flood Risk and Drainage Officer is satisfied with the scheme and recommends discharging the drainage condition.

The foul sewer runs towards the north east corner of the site where it joins the surface water drainage pipe before it runs away as a combined sewer and extends to the east under the allotment gardens to connect to an existing combined sewer pipe. The Lead

Local Flood Authority and Severn Trent Water are satisfied with the combined foul and surface water drainage and raised no issues.

### **Other matters**

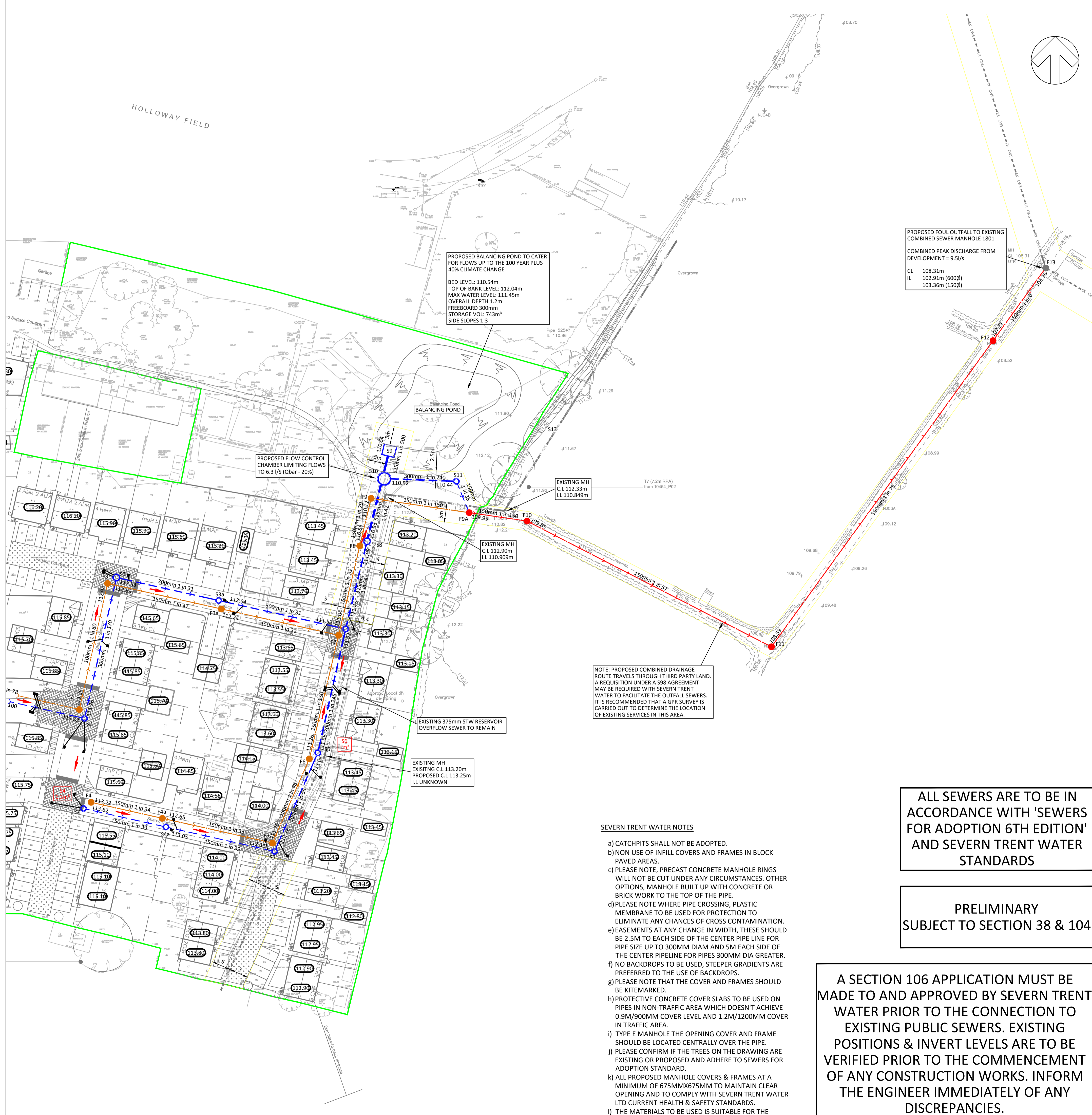
The current drainage scheme would unlikely have any direct impact on the surrounding neighbouring occupiers in terms of surface water flooding nor would the drainage works affect the nearby village green. This is due to the siting and route of the drainage which is away from the existing residential houses and village green boundary. Some of the houses have already been built and a few of them are also occupied. It appears that the surface water has not been discharged via the existing ditch as per the last approved drainage scheme. However, it appears the works for the foul sewer has been carried out in accordance with the last approved scheme. The current application therefore seeks to amend the approved drainage scheme, particularly with regards the approach to surface water drainage.

### **Conclusion**

The drainage scheme is considered to be acceptable and addresses the surface water and foul drainage requirements adequately. It is considered that the drainage scheme would minimise the potential risk of flooding on and off the site. The reason for Coventry City Council discharging the drainage condition is because the drainage scheme is in accordance with Policies DS3, EM1, EM4, EM5 and DE1 of the Coventry Local Plan 2016, together with the aims of the NPPF.

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**KEY**

- SITE BOUNDARY
- ADOPTABLE S104 SURFACE WATER SEWER
- ADOPTABLE S104 FOUL WATER SEWER
- ADOPTABLE S104 COMBINED WATER SEWER
- EX - SWS
- EX - FWS
- EX - CWS
- SURFACE WATER HEADWALL
- GULLY AND CONNECTION
- DRAINAGE EASEMENT
- PROPOSED FLOOR LEVEL
- BANKING
- SURFACE WATER FLOODING GENERATED DURING THE 100 YEAR RETURN PERIOD PLUS CLIMATE CHANGE. FLOOD WATERS TO BE CONTAINED WITHIN THE CARRIAGEWAY AND RE-ENTER GULLIES
- OVERLAND SURFACE WATER FLOW ROUTE IN EVENT OF NETWORK EXCEEDANCE OR BLOCKAGE

**PROPOSED BALANCING POND TO CATER FOR FLOWS UP TO THE 100 YEAR PLUS 40% CLIMATE CHANGE**  
 BED LEVEL: 110.54m  
 TOP OF BANK LEVEL: 112.04m  
 MAX WATER LEVEL: 111.45m  
 OVERALL DEPTH: 1.2m  
 FREEBOARD: 300mm  
 STORAGE VOL: 743m³  
 SIDE SLOPES: 1:3

**PROPOSED FOUL OUTFALL TO EXISTING COMBINED SEWER MANHOLE 1801**  
 COMBINED PEAK DISCHARGE FROM DEVELOPMENT = 9.5l/s  
 CL 108.31m  
 IL 102.91m (600Ø)  
 103.36m (150Ø)

**PROPOSED FLOW CONTROL CHAMBER LIMITING FLOWS TO 6.3 l/s (Qbar - 20%)**

**NOTE: PROPOSED COMBINED DRAINAGE ROUTE TRAVELS THROUGH THIRD PARTY LAND. A REQUISITION UNDER A S98 AGREEMENT MAY BE REQUIRED WITH SEVERN TREAT WATER TO FACILITATE THE OUTFALL SEWERS. IT IS RECOMMENDED THAT A GPR SURVEY IS CARRIED OUT TO DETERMINE THE LOCATION OF EXISTING SERVICES IN THIS AREA.**

**EXISTING 375mm STW RESERVOIR OVERFLOW SEWER TO REMAIN**

**EXISTING MH EXISTING C.L 113.20m PROPOSED C.L 113.25m I.L UNKNOWN**

- SEVERN TREAT WATER NOTES**
- CATCHPITS SHALL NOT BE ADOPTED.
  - NON USE OF INFILL COVERS AND FRAMES IN BLOCK PAVED AREAS.
  - PLEASE NOTE, PRECAST CONCRETE MANHOLE RINGS WILL NOT BE CUT UNDER ANY CIRCUMSTANCES. OTHER OPTIONS, MANHOLE BUILT UP WITH CONCRETE OR BRICK WORK TO THE TOP OF THE PIPE.
  - PLEASE NOTE WHERE PIPE CROSSING, PLASTIC MEMBRANE TO BE USED FOR PROTECTION TO ELIMINATE ANY CHANCES OF CROSS CONTAMINATION.
  - EASEMENTS AT ANY CHANGE IN WIDTH, THESE SHOULD BE 2.5M TO EACH SIDE OF THE CENTER PIPE LINE FOR PIPE SIZE UP TO 300MM DIAM AND 5M EACH SIDE OF THE CENTER PIPELINE FOR PIPES 300MM DIA GREATER.
  - NO BACKDROPS TO BE USED, STEEPER GRADIENTS ARE PREFERRED TO THE USE OF BACKDROPS.
  - PLEASE NOTE THAT THE COVER AND FRAMES SHOULD BE KITEMARKED.
  - PROTECTIVE CONCRETE COVER SLABS TO BE USED ON PIPES IN NON-TRAFFIC AREA WHICH DOESN'T ACHIEVE 0.9M/900MM COVER LEVEL AND 1.2M/1200MM COVER IN TRAFFIC AREA.
  - TYPE E MANHOLE THE OPENING COVER AND FRAME SHOULD BE LOCATED CENTRALLY OVER THE PIPE.
  - PLEASE CONFIRM IF THE TREES ON THE DRAWING ARE EXISTING OR PROPOSED AND ADHERE TO SEWERS FOR ADOPTION STANDARD.
  - ALL PROPOSED MANHOLE COVERS & FRAMES AT A MINIMUM OF 675MMX675MM TO MAINTAIN CLEAR OPENING AND TO COMPLY WITH SEVERN TREAT WATER LTD CURRENT HEALTH & SAFETY STANDARDS.
  - THE MATERIALS TO BE USED IS SUITABLE FOR THE GROUND CONDITIONS.

**ALL SEWERS ARE TO BE IN ACCORDANCE WITH 'SEWERS FOR ADOPTION 6TH EDITION' AND SEVERN TREAT WATER STANDARDS**

**PRELIMINARY SUBJECT TO SECTION 38 & 104**

**A SECTION 106 APPLICATION MUST BE MADE TO AND APPROVED BY SEVERN TREAT WATER PRIOR TO THE CONNECTION TO EXISTING PUBLIC SEWERS. EXISTING POSITIONS & INVERT LEVELS ARE TO BE VERIFIED PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION WORKS. INFORM THE ENGINEER IMMEDIATELY OF ANY DISCREPANCIES.**

REV	DESCRIPTION	DATE	BY	AUTH
P	DRAINAGE DESIGN UPDATED TO INTRODUCE COMBINED SEWER OUTFALL.	22.07.19	JMG	MK
O	APPROX. LINE OF STW DRAIN-DOWN SEWER INTRODUCED. DITCH COURSE FOOTPRINT WITHIN DEVELOPMENT ALTERED.	03.04.19	MK	CAO
N	WORKS TO EXISTING DITCH COURSE AMENDED.	01.04.19	MK	CAO
M	WORKS TO EXISTING DITCH COURSE AMENDED.	18.03.19	MK	CAO
L	WORKS TO EXISTING DITCH COURSE AMENDED.	27.02.19	MK	CAO
K	BALANCING POND FOOTPRINT AMENDED. WORKS TO EXISTING DITCH COURSE INTRODUCED.	14.01.19	MK	CAO
J	LATEST SITE LAYOUT INTRODUCED.	28.10.18	MK	CAO
I	FINAL FOUL OUTFALL OPTION INDICATED THROUGH ADJACENT ALLOTMENTS.	09.10.18	CAO	CAO
H	DRAINAGE OUTFALL OPTIONS SPLIT OVER MULTIPLE SHEETS. DRAINAGE AMENDED TO SUIT PLANNING COMMENTS.	04.09.18	MK	CAO
G	MANHOLES S3A, S4A, F3A, F4A ADDED TO SUIT BELLWAY SOUTH MIDLANDS COMMENTS.	22.08.18	CJ	CAO
F	SW AND FW OUTFALL ROUTES AMENDED. DRAINAGE NOTES AMENDED.	21.08.18	MK	CAO
E	FINISHED FLOOR LEVELS AMENDED.	02.07.18	CAO	CAO
D	DRAINAGE OUTFALL SEWERS AMENDED.	20.06.18	CAO	CAO
C	DRAINAGE OUTFALL SEWERS AMENDED.	01.06.18	CAO	CAO
B	NEW LAYOUT INCORPORATED.	22.03.18	CAO	CAO
A	POROUS PAVING REMOVED.	09.03.18	CAO	CAO

CLIENT	<b>BELLWAY SOUTH MIDLANDS</b>		
PROJECT	<b>SCOTS LANE COVENTRY</b>		
TITLE	<b>DRAINAGE LAYOUT</b>		
STATUS	<b>FOR APPROVAL</b>		
DRAWN	CAO	AUTHORISED	CAO
SCALE	1:500@A1	DATE	02.03.18
PROJECT NO.	0096	DRAWING NO.	101
REV			P

**dds** development design solutions

Development Design Solutions Ltd  
 Watertight Management House  
 Saxon Business Park  
 Hanbury Road  
 Bromsgrove B60 4AD  
 T: 07814 256 851  
 E: corrmac@development-design.co.uk

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**Report to**  
Planning Committee 20 February 2020  
**Report of**

**Title:**  
Application to register land at Juniper Park, Woodridge Avenue as a town or village green

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**Is this a key decision?**

No

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**Executive Summary:**

The City Council as registration authority has received an application for the registration of Juniper Park, Woodridge Avenue as a Village Green. The purpose of this report is to enable the Planning Committee to consider the application made under the Commons Act 2006 to the City Council as the registration authority regarding the potential registration of land known as Juniper Park, Woodridge Avenue as a Town or Village Green.

In order for land to be registered as a Town or Village Green it must meet certain criteria and if not all of these criteria are met, then the land should not be registered as such. In this instance not all of the criteria are met, as the information that has been submitted shows that use of the land known as Juniper Park, has been 'by right' rather than 'as of right'.

**Recommendations:**

That Planning Committee are recommended to:

Reject the application to register the land known as Juniper Park, Woodridge Avenue as a town or village green, for the reasons set out in the Inspector's report at Appendix 2 of this report.

**List of Appendices included:**

Appendix 1  
Location plan showing the land subject of the application

Appendix 2  
The independent Inspector's report

Appendix 3  
Copies of the correspondences, documentary evidence and representations submitted in support and objection to the application are available to view electronically via the following link:  
<http://planning.coventry.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=799902>

**Background papers:**

None

**Other useful documents**

None

**Has it been or will it be considered by Scrutiny?**

No

**Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?**

No

**Will this report go to Council?**

No



**Report title:** Application to register land at Juniper Park, Woodridge Avenue as a town or village green

## **1. Context (or background)**

- 1.1 Coventry City Council is the registration authority for town and village greens under the Commons Act 2006.
- 1.2 On 29<sup>th</sup> November 2018 the Council received an application from Allesley Green Residents Association made under Section 15(1) of the Commons Act 2006, to register Juniper Park, Woodridge Avenue as a town or village green.
- 1.3 Notices of the application were sent to residents of Allesley Green and affected landowners and the application was advertised by way of site notices and in the Coventry Evening Telegraph. An objection was received from Coventry City Council (as landowner).
- 1.4 In October 2019 the Council appointed an expert barrister as an independent Inspector to assess the evidence submitted in respect of the application. The Inspector has had the opportunity to assess the evidence submitted by all parties and her report is attached in appendix 2.

## **2. The relevant statutory requirements**

- 2.1 The Commons Act 2006 is the statutory regime governing town and village greens. The Act requires each registration authority to maintain a register of town and village greens within its area. Section 15 of the Act provides for the registration of land as a town or village green where the relevant statutory criteria are established in relation to such land.
- 2.2 The relevant statutory requirements are contained in Section 15(2) of the Commons Registration Act 2006 which enables a person to apply to register land as a town or village green where:
  - (a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of a least 20 years; and
  - (b) they continue to do so at the time of the application.
- 2.3 As Registration Authority, the City Council has a duty to decide whether or not the use of the land subject to the application fully meets **all** the elements of qualifying use under section 15(1) and 15(2) of the Commons Act 2006. In order for the application to be successful the applicant needs to demonstrate that:
  - (i) the application land comprises “land” within the meaning of the 2006 Act;
  - (ii) the land has been used for lawful sports and pastimes;
  - (iii) such use has been for a period of not less than 20 years;
  - (iv) such use has been by a significant number of the inhabitants of a locality or of a neighbourhood within a locality;
  - (v) such use has been as of right; and
  - (vi) such use continued at the time of the application.

2.4 The Registration Authority is required to either accept or reject the Application solely on the facts. Any other issues, including those of desirability or community needs, are not legally relevant and cannot be taken into consideration. Acceptance means the land will be registered. Rejection means that no registration may take place. Under the current law, land can only have the legal status of a Town or Village Green upon registration.

### **3. The evidence and submissions**

3.1 The Inspector's report contains a detailed analysis of the background of the case, site description, history, the inspector's conclusion, the application of the law and a recommendation. A full copy of the report is attached as **Appendix 2** to this report.

3.2 The evidence which has been considered by the Inspector includes the original application documentation submitted by the applicant and all other correspondence received in respect of the application. In addition to this, all further correspondence between the registration authority and both the applicant and landowner were considered.

3.3 In considering the evidence put forward, the Inspector has therefore had regard to caselaw on the various elements of the statutory criteria required to be established for land to be registered as a town or village green, which are set out in paragraphs 3.8- 3.22 of her report.

### **4. Consideration of the facts**

4.1 **The Land** – The Inspector finds the land has clearly defined and fixed boundaries and there is no dispute in any of the evidence that the area of land comprises “land” within the meaning of Section 15(2) of the 2006 Act and as such is capable of registration as a town or village green.

4.2 **Relevant 20 year period** – The relevant 20 year period for the application is 29 November 1998 until 29 November 2018.

4.3 **Locality or neighbourhood within a locality** – The Inspector notes that the applicants have not specifically identified whether they contend that Allesley Green is a qualifying neighbourhood or locality and the objector argues that it is capable of being neither. In the Inspector's view, Allesley Green is not a recognised area known to the law (such as an established parish or electoral ward).

4.4 On the issue of neighbourhood, the crucial issue is whether it is an area with a sufficient degree of pre-existing cohesiveness. On this matter the Inspector notes that: Allesley Green is a recognised postal address; it has a resident's association (Allesley Green Residents Association); there is a convenience store known as 'Allesley Green One Stop Shop'; it is an area with a recognised name (the Allesley Green Estate); and it is apparent from the applicant's evidence that community events take place on the land and there is a strong sense of community.

4.5 Consequently the Inspector finds that Allesley Green is a qualifying neighbourhood within the meaning of section 15(2) of the 2006 Act.

- 4.6 **Use of land for lawful sports and pastimes by a significant number of local inhabitants** – The Inspector notes that the witness statements submitted in support of the application make reference to frequent informal recreation activities being carried out on the land (which include dog walking, childrens play, den building, sports and picnicking) and that a well maintained play area is situated within the land. In addition to this, there is evidence of formal recreational events taking place (including treasure hunts, May day festivals and carol services).
- 4.7 It is also apparent from the evidence that the land is used by residents of the Allesley Park Estate, which the Inspector finds unsurprising given its central location within the estate, well laid out nature and accessibility. Indeed the objector acknowledges that local residents have and continue to use the land to indulge in lawful sports and pastimes and the Inspector finds that ‘the evidence submitted demonstrates that the land has been used for lawful sports and pastimes by a significant number of the inhabitants of Allesley Green throughout the relevant twenty year period’.
- 4.8 **Use as of right** – for the use to have been ‘as of right’ for the 20 year period, it needs to have been without secrecy (*nec clam*), without force (*nec vi*) and without permission (*nec precario*). There is no indication that use of the land was carried out by stealth as it was done openly and without secrecy. Likewise, there is no indication that the use of the land was by force as there is open access to the land and this use has never been challenged by the landowner.
- 4.9 The fundamental issue is whether the land has been used ‘as of right’ (where the use is trespassory) or ‘by right’ (with the landowners permission and without trespass). The relevant case here is that of *Barkas*, the details of which are set out in paragraphs 4.20-4.25 of the Inspector’s report.
- 4.10 From the evidence, it would seem that the land was transferred to the City Council in 1992 (prior to the 20 year period) and the matter of transfer or ownership has not been challenged. The transfer does not identify the purpose for acquiring the land, but the landowner claims it was appropriated as public open space. A S.52 Agreement from 1982 required the estate developers to provide a fully equipped play area and there is no dispute that this was laid out shortly after and has been used as such and maintained by the landowner since.
- 4.11 The Inspector finds that “as the Land has been owned and held by a local authority for the very purpose of public recreation, laid out as such and maintained as such, and so used by the public throughout the relevant 20 year period, the public have had, and continue to have, a right to use it. They have not used it as trespassers; rather, they were and are entitled to use it for recreational purposes. In such circumstances, it is my opinion that the Land has been used ‘by right’, namely the use has been *precario* and not ‘as of right’. Consequently, I conclude that that element of the statutory criteria has not been established.”
- 4.12 **Continuation of use** – the Inspector finds that use of the land has continued up until the date of the application and indeed continues to be used.

## **5. The Inspectors conclusion**

- 5.1 In looking at the six criteria, all of which need to be met in order for a town or village green application to be successful, the Inspector concludes that:
- (i) the application Land comprises Land which is capable of registration as a town or village green in principle (criteria met)
  - (ii) the relevant 20 year period is 29 November 1998 to 29 November 2008 (criteria met)
  - (iii) Allesley Green is a qualifying neighbourhood (criteria met)
  - (iv) the application land has been used for lawful sports and pastimes by a significant number of the inhabitants of Allesley Green throughout the 20 year period (criteria met)
  - (v) the recreational use of the land has been 'by right' and not 'as of right' throughout the relevant the 20 year period (criteria **not** met)
  - (vi) the use of the land for lawful sports and pastimes has continued until the date of the application (criteria met).
- 5.2 Not all of the six criteria which would allow the land to be registered as a town or village green are met, as the land is being used 'by right' and not 'as of right'.

## **6. The Inspectors recommendation**

- 6.1 The Inspector recommends that the application to register the land known as Juniper Park as a town or village green be rejected.

## **7. Evaluation of Options**

- 7.1 The Inspector's findings are not binding on this Committee, but the Committee should have full regard to the appended Inspector's report and the recommendations of the independent Inspector and act fairly and reasonably.
- 7.2 It is for the Committee to reach its own determination on the matter of fact and law arising as a result of the application. The application should be determined on the facts of the case and not on the merits or otherwise of registration.
- 7.3 The Inspector has considered the evidence and has been able to give appropriate weight to it with the benefit of having viewed all of the documentation in respect of the application and her own significant experience in village green matters.
- 7.4 The Committee would need to have clear and relevant reasons to reach a decision which conflicts with the recommendations of the Inspector.

## **8. Financial implications**

- 8.1 The council is required to determine the application and therefore no financial implications are relevant

**9. Legal implications**

9.1 There is a duty to determine the application in accordance with the legal requirements as contained in Section 15 of the Commons Act 2006

**10. What is the impact on the organisation?**

10.1 None

**11. Equality and Consultation Analysis (ECA)**

11.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

A public authority must, in the exercise of its functions, have due regard to the need to:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

There are no known equality implications arising directly from this development.

**12. Implications for (or impact on) climate change and the environment**

12.1 None

**13. Implications for partner organisations?**

13.1 None

**Report author(s):**

**Name and job title:** Hannah Holt, Principle Planning Officer

**Directorate:** Place Directorate

**Tel and email contact:** Hannah.holt@coventry.gov.uk

Enquiries should be directed to the above person.

Contributor/approver name	Title	Directorate or organisation	Date doc sent out	Date response received or approved

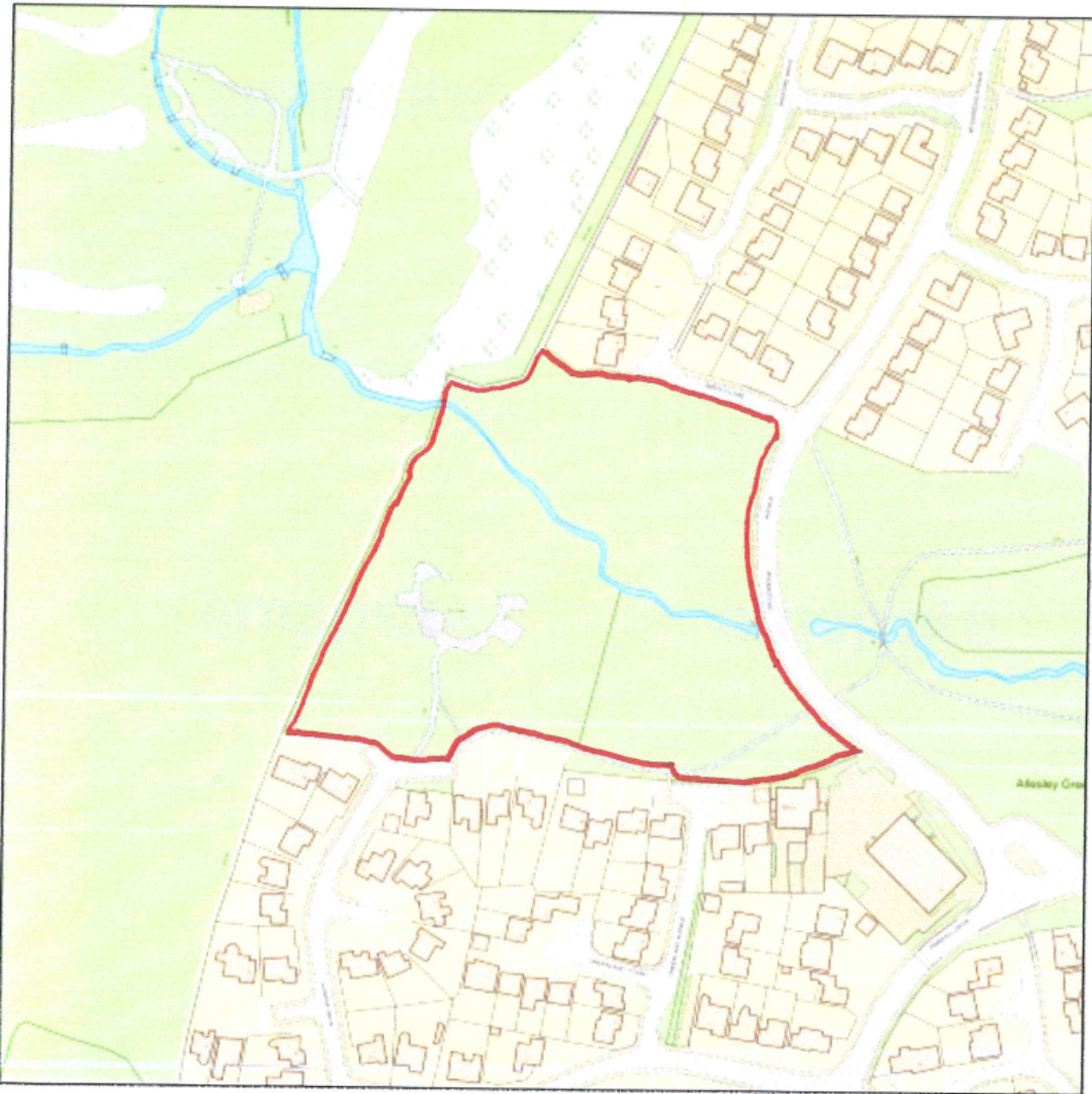
<b>Contributors:</b>				
Usha Patel	Governance Services Officer	Place		11.02.2020
Mark Andrews	Development Manager	Place	05.02.2020	06.02.2020
Tracy Miller	Strategic Lead, Planning and Regulation	Place	05.02.2020	05.02.2020
<b>Names of approvers for submission:</b> (officers and members)				
Finance: Cath Crosby	Lead Accountant	Place	05.02.2020	07.02.2020
Legal: Oluremi Aremu	Major Projects Lead Lawyer	Place	05.02.2020	09.02.2020
Director: Martin Yardley	Deputy Chief Executive (Place)	Place	10.02.2020	10.02.2020

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## Appendices

Appendix 1 - Location plan showing the land subject of the application





Appendix 2 - The independent Inspectors report

**IN THE MATTER OF AN APPLICATION TO REGISTER LAND KNOWN AS JUNIPER PARK,  
WOODRIDGE AVENUE, COVENTRY  
AS A TOWN OR VILLAGE GREEN**

**REPORT**

**of Miss Ruth Stockley**

**04 February 2020**

**Coventry City Council**

**Council House**

**Coventry**

**CV1 5RR**

**Ref: VG/2018/3366**

**IN THE MATTER OF AN APPLICATION TO REGISTER LAND KNOWN AS JUNIPER PARK,  
WOODRIDGE AVENUE, COVENTRY**

## AS A TOWN OR VILLAGE GREEN

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### REPORT

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#### 1. INTRODUCTION

- 1.1 This Report relates to an Application (“the Application”) made under section 15(1) of the Commons Act 2006 (“the 2006 Act”) to register land known as Juniper Park, Woodridge Avenue, Coventry CV5 7PW (“the Land”) as a town or village green. Under the 2006 Act, Coventry City Council, as the Registration Authority, is required to register land as a town or village green where the relevant statutory requirements have been met. The Registration Authority have appointed me as an independent Inspector to consider all the relevant evidence relating to the Application and then to prepare a Report containing my findings and recommendations for consideration by the Authority.
- 1.2 The determination of the Application is for the Registration Authority, taking into account the contents of this Report. Provided it acts lawfully, the Registration Authority is free to accept or to reject any of my recommendations contained in this Report.

#### 2. APPLICATION

- 2.1 The Application is made by the Allesley Green Residents Association (“the Applicants”). The Registration Authority’s official stamp of valid receipt is dated 29 November 2018. Part 5 of the Application Form describes the Land sought to be registered as follows:

*“Juniper Park (including Children’s Play Area), Woodridge Avenue, Coventry CV5 7PN”*

and its location is identified as being “*Land Parcels 26419640; 26429367; 26433925*”. A map showing the Land outlined in red has been submitted marked “Exhibit B”. In part 6 of the Application Form, the “locality or neighbourhood within a locality” in respect of which the Application is made is identified as “*Allesey Green, Coventry CV5 7PN*” (sic). A map of that area has been provided at Appendix 3 to a letter from the Applicants to the Registration Authority dated 8 November 2019.

- 2.2 The Application is made on the basis that section 15(2) of the 2006 Act applies, which provision contains the relevant qualifying criteria. The justification for the registration of the Land is set out in part 7 of the Form and in a Supporting Statement submitted with the Application. The Application is also supported by some 42 witness statements, petition sheets signed by 41 residents, photographs, maps and other documentary evidence.
- 2.3 The Application was duly advertised by the Registration Authority to which a number of responses were made. One objection (“the Objection”) was received from the owner of the Land, namely Coventry City Council in its capacity as Landowner (“the Objector”).
- 2.4 Further representations, correspondence and documentary evidence has been submitted in support of both the Application and the Objection. I have been provided with copies of all the representations, correspondence and supporting documents, all of which I have read and the contents of which I have taken into account in this Report. I shall assume that copies of all the submitted documentation will be made available to the Registration Authority when making its decision, and so I do not set out its detailed contents herein.
- 2.5 I visited the Site on 9 December 2019. I shall assume that members of the Registration Authority will ensure they are familiar with the Application Land prior to reaching their decision.

### 3. LEGAL FRAMEWORK

3.1 I set out below the relevant general legal framework within which the Application must be considered and ultimately be determined by the Registration Authority. I shall then proceed to apply the legal position to the facts I find based on all the documentary evidence that has been adduced as referred to above.

#### **Commons Act 2006**

3.2 The Application is made pursuant to the Commons Act 2006. That Act requires each registration authority to maintain a register of town and village greens within its area. Section 15 provides for the registration of land as a town or village green where the relevant statutory criteria are established in relation to such land.

3.3 The Application seeks the registration of the Land by virtue of the operation of section 15(2) of the 2006 Act. Under that provision, land is to be registered as a town or village green where:-

- “(a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and*
- (b) they continue to do so at the time of the application.”*

3.4 Therefore, for the Application to succeed, it must be established that:-

- (i) the Application Land comprises “land” within the meaning of the 2006 Act;
- (ii) the Land has been used for lawful sports and pastimes;
- (iii) such use has been for a period of not less than 20 years;
- (iv) such use has been by a significant number of the inhabitants of a locality or of a neighbourhood within a locality;

- (v) such use has been as of right; and
- (vi) such use continued at the time of the Application.

### **Burden and Standard of Proof**

3.5 The burden of proving that the Land has become a village green rests with the Applicants. The standard of proof is the balance of probabilities. That is the approach I have used.

3.6 Further, when considering whether or not the Applicants have discharged the evidential burden of proving that the Land has become a town or village green, it is important to have regard to the guidance given by Lord Bingham in **R. v Sunderland City Council ex parte Beresford**<sup>1</sup> where, at paragraph 2, he noted as follows:-

*“As Pill LJ. rightly pointed out in R v Suffolk County Council ex parte Steed (1996) 75 P&CR 102, 111 “it is no trivial matter for a landowner to have land, whether in public or private ownership, registered as a town green ...”. It is accordingly necessary that all ingredients of this definition should be met before land is registered, and decision makers must consider carefully whether the land in question has been used by inhabitants of a locality for indulgence in what are properly to be regarded as lawful sports and pastimes and whether the temporal limit of 20 years’ indulgence or more is met.”*

Hence, all the elements required to establish that land has become a town or village green must be properly and strictly proved by an applicant on a balance of probabilities.

### **Statutory Criteria**

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<sup>1</sup> [2004] 1 AC 889. Although **Beresford** was overruled by **R. (on the application of Barkas) v. North Yorkshire County Council Barkas** [2014] 3 All ER 178, it was not done so on this point which remains good law.

3.7 Caselaw has provided helpful rulings and guidance on the various elements of the statutory criteria required to be established for land to be registered as a town or village green which I shall refer to below.

## Land

3.8 Any land that is registered as a village green must be clearly defined so that it is clear what area of land is subject to the rights that flow from village green registration.

3.9 However, it was stated by way of *obiter dictum* by the majority of the House of Lords in ***Oxfordshire County Council v. Oxford City Council***<sup>2</sup> that there is no requirement that a piece of land must have any particular characteristics consistent with the concept of a village green in order to be registered.

## Lawful Sports and Pastimes

3.10 It was made clear in ***R. v. Oxfordshire County Council ex parte Sunningwell Parish Council***<sup>3</sup> that “*lawful sports and pastimes*” is a composite expression and so it is sufficient for a use to be either a lawful sport or a lawful pastime. Moreover, it includes present day sports and pastimes and the activities can be informal in nature. Hence, it includes recreational walking, with or without dogs, and children’s play.

3.11 However, that element does not include walking of such a character as would give rise to a presumption of dedication as a public right of way. In ***R. (Laing Homes Limited) v. Buckinghamshire County Council***<sup>4</sup>, Sullivan J. (as he then was) noted at paragraph 102 that:-

*“it is important to distinguish between use which would suggest to a reasonable landowner that the users believed they were exercising a public right of way – to*

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<sup>2</sup> [2006] 2 AC 674 per Lord Hoffmann at paragraphs 37 to 39.

<sup>3</sup> [2000] 1 AC 335 at 356F to 357E.

<sup>4</sup> [2003] EWHC 1578 (Admin).

*walk, with or without dogs, around the perimeter of his fields – and use which would suggest to such a landowner that the users believed that they were exercising a right to indulge in lawful sports and pastimes across the whole of his fields.”*

3.12 Moreover, Lightman J. at first instance in **Oxfordshire County Council v. Oxford City Council**<sup>5</sup> stated at paragraph 102:-

*“Recreational walking upon a defined track may or may not appear to the owner as referable to the exercise of a public right of way or a right to enjoy a lawful sport or pastime depending upon the context in which the exercise takes place, which includes the character of the land and the season of the year. Use of a track merely as an access to a potential green will ordinarily be referable only to exercise of a public right of way to the green. But walking a dog, jogging or pushing a pram on a defined track which is situated on or traverses the potential green may be recreational use of land as a green and part of the total such recreational use, if the use in all the circumstances is such as to suggest to a reasonable landowner the exercise of a right to indulge in lawful sports and pastimes across the whole of his land. If the position is ambiguous, the inference should generally be drawn of exercise of the less onerous right (the public right of way) rather than the more onerous (the right to use as a green).”*

He went on at paragraph 103 to state:-

*“The critical question must be how the matter would have appeared to a reasonable landowner observing the user made of his land, and in particular whether the user of tracks would have appeared to be referable to use as a public footpath, user for recreational activities or both. Where the track has two distinct*

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<sup>5</sup> [2004] Ch. 253.

*access points and the track leads from one to the other and the users merely use the track to get from one of the points to the other or where there is a track to a cul-de-sac leading to, e g, an attractive view point, user confined to the track may readily be regarded as referable to user as a public highway alone. The situation is different if the users of the track, e g, fly kites or veer off the track and play, or meander leisurely over and enjoy the land on either side. Such user is more particularly referable to use as a green. In summary it is necessary to look at the user as a whole and decide adopting a common-sense approach to what (if any claim) it is referable and whether it is sufficiently substantial and long standing to give rise to such right or rights.”*

The Court of Appeal and the House of Lords declined to rule on the issue since it was so much a matter of fact in applying the statutory test. However, neither the Court of Appeal nor the House of Lords expressed any disagreement with the above views advanced by Lightman J.

### **Continuity and Sufficiency of Use over 20 Year Period**

3.13 The qualifying use for lawful sports and pastimes must be continuous throughout the relevant 20 year period: **Hollins v. Verney**.<sup>6</sup>

3.14 Further, the use has to be of such a nature and frequency as to show the landowner that a right is being asserted and it must be more than sporadic intrusion onto the land. It must give the landowner the appearance that rights of a continuous nature are being asserted. The fundamental issue is to assess how the matters would have appeared to the landowner: **R. (on the application of Lewis) v. Redcar and Cleveland Borough Council**.<sup>7</sup>

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<sup>6</sup> (1884) 13 QBD 304.

<sup>7</sup> [2010] UKSC 11 at paragraph 36.



### Locality or Neighbourhood within a Locality

3.15 A “locality” must be a division of the County known to the law, such as a borough, parish or manor: **MoD v Wiltshire CC**;<sup>8</sup> **R. (on the application of Cheltenham Builders Limited) v. South Gloucestershire DC**;<sup>9</sup> and **R. (Laing Homes Limited) v. Buckinghamshire CC**.<sup>10</sup> A locality cannot be created simply by drawing a line on a plan: **Cheltenham Builders** case.<sup>11</sup>

3.16 In contrast, a “neighbourhood” need not be a recognised administrative unit. Lord Hoffmann pointed out in **Oxfordshire County Council v. Oxford City Council**<sup>12</sup> that the statutory criteria of “any neighbourhood within a locality” is “obviously drafted with a deliberate imprecision which contrasts with the insistence of the old law upon a locality defined by legally significant boundaries”. Hence, a housing estate can be a neighbourhood: **R. (McAlpine) v. Staffordshire County Council**.<sup>13</sup> Nonetheless, a neighbourhood cannot be any area drawn on a map. Instead, it must be an area which has a sufficient degree of cohesiveness: **Cheltenham Builders** case.<sup>14</sup>

3.17 Further clarity was provided on that element by HHJ Waksman QC in **R. (Oxfordshire and Buckinghamshire Mental Health NHS Foundation Trust and Oxford Radcliffe Hospitals NHS Trust) v. Oxfordshire County Council**<sup>15</sup> who stated:-

*“While Lord Hoffmann said that the expression was drafted with “deliberate imprecision”, that was to be contrasted with the locality whose boundaries had to be “legally significant”. See paragraph 27 of his judgment in Oxfordshire (supra). He was not there saying that a neighbourhood need have no boundaries at all. The factors to be considered when determining whether a purported*

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<sup>8</sup> [1995] 4 All ER 931 at page 937b-e.

<sup>9</sup> [2003] EWHC 2803 (Admin) at paragraphs 72 to 84.

<sup>10</sup> [2003] EWHC 1578 (Admin) at paragraph 133.

<sup>11</sup> At paragraphs 41 to 48.

<sup>12</sup> [2006] 2 AC 674 at paragraph 27.

<sup>13</sup> [2002] EWHC 76 (Admin).

<sup>14</sup> At paragraph 85.

<sup>15</sup> [2010] EWHC 530 (Admin) at paragraph 79.

*neighbourhood qualifies are undoubtedly looser and more varied than those relating to locality... but, as Sullivan J stated in R (Cheltenham Builders) Ltd v South Gloucestershire Council [2004] JPL 975 at paragraph 85, a neighbourhood must have a sufficient degree of (pre-existing) cohesiveness. To qualify therefore, it must be capable of meaningful description in some way. This is now emphasised by the fact that under the Commons Registration (England) Regulations 2008 the entry on the register of a new TVG will specify the locality or neighbourhood referred to in the application.”*

### **Significant Number**

3.18 “*Significant*” does not mean considerable or substantial. What matters is that the number of people using the land in question has to be sufficient to indicate that their use of the land signifies that it is in general use by the local community for informal recreation, rather than occasional use by individuals as trespassers: **R. (McAlpine) v. Staffordshire County Council**.<sup>16</sup>

### **As of Right**

3.19 Use of land “*as of right*” is a use without force, without secrecy and without permission, namely *nec vi nec clam nec precario*. It was made clear in **R. v. Oxfordshire County Council ex parte Sunningwell Parish Council**<sup>17</sup> that the issue does not turn on the subjective intention, knowledge or belief of users of the land.

3.20 “Force” does not merely refer to physical force. User is *vi* and so not “*as of right*” if it involves climbing or breaking down fences or gates or if it is under protest from the landowner: **Newnham v. Willison**.<sup>18</sup> Further, Lord Rodger in **Lewis v. Redcar** stated that “*If the use continues despite the neighbour’s protests and attempts to interrupt it, it is*

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<sup>16</sup> [2002] EWHC 76 (Admin) at paragraph 71.

<sup>17</sup> [2000] 1 AC 335.

<sup>18</sup> (1988) 56 P. & C.R. 8.

*treated as being vi...user is only peaceable (nec vi) if it is neither violent nor contentious”.*

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3.21 “Permission” can be expressly given or can be implied from the landowner’s conduct.

3.22 Further, land that is used “by right” is being used with permission and so is not being used “as of right”: ***R. (on the application of Barkas) v. North Yorkshire County Council***.<sup>20</sup> I shall refer in more detail to the legal propositions relevant to “by right” use below.

#### **4. APPLICATION OF THE LAW TO THE FACTS**

##### **Approach to the Evidence**

4.1 I have considered all the written evidence submitted. I emphasise that my findings and recommendations are based upon whether the Land should be registered as a town or village green by virtue of the relevant statutory criteria being satisfied. In determining that issue, it is inappropriate for me or the Registration Authority to take into account the merits of the Land being registered as a town or village green or of it not being so registered.

4.2 I shall consider each of the elements of the relevant statutory criteria in turn as set out in paragraph 3.4 above, and determine whether they have been established on the basis of all the evidence, applying the facts to the general legal framework set out above and to other specific legal principles where relevant. The facts and findings I refer to below are all based upon the written evidence submitted. In order for the Land to be registered as a town or village green, each of the relevant statutory criteria must be established by the Applicants on the basis of the evidence adduced on the balance of probabilities.

##### **The Land**

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<sup>19</sup> At paragraphs 88-90.

<sup>20</sup> [2014] 3 All ER 178.

4.3 The relevant land sought to be registered is clear. The Application Land is identified on the map marked “Exhibit B” submitted by the Applicants on which it is outlined in red. The Land has clearly defined and fixed boundaries, and there is no dispute in any of the evidence adduced that that area of land comprises “land” within the meaning of section 15(2) of the 2006 Act and is capable of registration as a town or village green in principle and I so find.

#### **Relevant 20 Year Period**

4.4 As to the identification of the relevant 20 year period for the purposes of section 15(2) of the 2006 Act, the qualifying use must continue up until the date of the Application. Hence, the relevant 20 year period is the period of 20 years which ends at the date of the Application. The Application Form is officially stamped as being validly received by the Registration Authority on 29 November 2018. It follows that the relevant 20 year period for the purposes of section 15(2) is 29 November 1998 until 29 November 2018.

#### **Locality or Neighbourhood within a Locality**

4.5 Turning next to the identity of the relevant locality or neighbourhood within a locality for the purposes of section 15(2), the Application Form in part 6 identifies the locality or neighbourhood within a locality relied upon as Allesley Green. A map showing the area of Allesley Green was provided by the Applicants at Appendix 3 to their letter to the Registration Authority dated 8 November 2019.

4.6 The Applicants have not specifically identified whether they contend that Allesley Green is a qualifying locality or neighbourhood. The Objector argues in its representation dated 22 October 2019 that it is capable of being neither.

4.7 As to it being a locality, it is my view that Allesley Green is not a recognised area known to the law, such as an established parish or electoral ward. Indeed, I note from the

Applicants' representations dated 8 November 2019 in reply to the Objection that Allesley Green is "part of" the ecclesiastical parish of Eastern Green and "part of" the Woodlands Ward. There is no evidence that it is an established area known to the law in its own right. Consequently, I find that Allesley Green is not a qualifying locality.

- 4.8 As to whether it is a neighbourhood, the crucial issue is whether it is an area with a sufficient degree of pre-existing cohesiveness. In contrast to a locality, a neighbourhood need not be an area known to the law. It can have imprecise boundaries. Nonetheless, it cannot merely be an area drawn on a map. It must be capable of some meaningful description. The issue is ultimately one of fact.
- 4.9 The Objector contends in its representations that the Applicants have failed to establish "an impression of cohesiveness". In that regard, I note the following as referred to in the Applicants' response dated 8 November 2019 and in the evidence in support of the Application.
- 4.10 Firstly, Allesley Green is a recognised postal address. That is apparent from the witness statements in support of the Application in which "Allesley Green" is part of the addresses provided. Secondly, it has a Residents' Association known as "Allesley Green Residents' Association", which is the very body which made the present Application. Thirdly, there is a convenience store within the area known as "Allesley Green One Stop" shop. Fourthly, it is clearly a recognised area with a recognised name. The housing estate where the Land is situated is frequently referred to in the evidence as the "Allesley Green Estate". Fifthly, it is apparent from the Applicants' evidence and the community events that take place on the Land that there is a particularly strong sense of community in the area. In such circumstances, it is my opinion that the area known as, and referred to as, Allesley Green is an established community with the requisite degree of cohesiveness to be

regarded as a neighbourhood. It is far from being merely an area consisting of a line drawn on a map.

4.11 Consequently, I find that Allesley Green is a qualifying neighbourhood within the meaning of section 15(2) of the 2006 Act.

#### **Use of Land for Lawful Sports and Pastimes by a Significant Number of Local Inhabitants**

4.12 The next issue I turn to is whether the Land has been used for lawful sports and pastimes by a significant number of the inhabitants of Allesley Green throughout the relevant 20 year period. The witness statements in support of the Application set out in some detail the recreational use made of the Land by the writers, their families, and the general community over the years. References are made to frequent informal recreational activities carried out on the Land including pastimes such as recreational walking, dog walking, children's play, building dens, socialising, football, cricket, tug-o-war, picnicking, and enjoying the flora and fauna. Further, the well maintained children's play area is situated within the Application Land. In addition, the Land has been regularly used for more formal and organised recreational events and activities, such as bonfires, Easter Egg and Treasure Hunts, May Day parties and Carol Services. I have seen a number of photographs taken showing recreational activities taking place on the Land.

4.13 Moreover, it is apparent from the addresses on the various witness statements and letters in support of the Application and from the contents of other documents produced advertising events on the Land that it has largely been used by the local inhabitants of the Allesley Green Estate. Indeed, my clear impression from the evidence I have read is that

it is regarded as, and has been regularly used as, an important community asset by many local residents since the 1980's when it was provided as part of the Estate, which was constructed around 1983.

4.14 That is unsurprising given the very nature and location of the Land. It is an attractive and safe area of open space away from traffic which has retained its natural environment with resulting diverse ecological value. There are paths around and through it, and a well equipped children's play area within it. Moreover, it is located within the Allesley Green Estate making it easily accessible to local residents. Given such circumstances, I would expect the Land to have been used for recreational purposes by local people.

4.15 Furthermore, I note that the Objector acknowledges that the Land has been used for lawful sports and pastimes stating in its representations dated 22 October 2019:

*"The Applicant has provided evidence with the Application which the Landowner accepts shows that the local residents have, and continue to, indulge in lawful sports and pastimes on the Land."*

4.16 All such activities referred to in paragraph 4.12 above are lawful recreational pursuits. Consequently, taking the above matters into account, I find that the evidence submitted demonstrates that the Land has been used for lawful sports and pastimes by a significant number of the inhabitants of Allesley Green throughout the relevant 20 year period.

#### **Use as of Right**

4.17 Turning to whether the Land has been used "as of right" during the relevant 20 year period, it must have been used without secrecy, without force and without permission in order to satisfy the statutory criteria.

4.18 There is no suggestion in the evidence that any of the use was by stealth. On the contrary, it was carried out openly during daylight hours and without any element of secrecy. I therefore find that the use of the Land relied upon in support of the Application has been *nec clam*.

*Nec vi*

4.19 Similarly, there is no reference in the evidence to any of the use of the Land relied upon being carried out with force, either due to entering the Land using physical force, such as by breaking down a fence, or due to it being contentious, such as where carried out under protest from the landowner. Instead, there has been open access to the Land at all times, and the Landowner has not challenged any users, whether in person or by appropriate signage indicating that the Land was not available for use by the public. I therefore find that the use of the Land has been *nec vi*.

*Nec precario*

4.20 Instead, it is apparent from the Landowner's representations that the fundamental issue in dispute is whether the use of the Land has been with permission and thus not as of right. It is contended that the use has been "by right" and thereby with permission applying the legal principles set out in the leading case of **Barkas**.

4.21 In that case, the Supreme Court held that recreational land provided and maintained by a local authority pursuant to section 12 of the Housing Act 1985 or its statutory predecessors was used by the public "by right" and not "as of right" within the meaning of section 15 of the 2006 Act. It further held that a recreation ground provided for public use by a local authority pursuant to any of its statutory powers would similarly be used by the public "by right" and not "as of right". Where land is held by a local authority for the statutory purpose of recreation, and members of the public then use the land for that purpose, then they so use it pursuant to a **statutory right** to do so. They are accordingly



not trespassers, which is a pre-requisite of land being used “as of right”, as they have a right to use the land. In order to be an “as of right” use, **the use must be trespassory**, whether or not tolerated by the landowner.

4.22 Lord Neuberger stated at paragraph 27 of **Barkas**:

*“As against the owner (or more accurately, the person entitled to possession) of land, third parties on the land either have the right to be there and to do what they are doing, or they do not. If they have a right in some shape or form (whether in private or public law), then they are permitted to be there, and if they have no right to be there, then they are trespassers. I cannot see how someone could have the right to be on the land and yet be a trespasser (save, I suppose, where a person comes on the land for a lawful purpose and then carries out some unlawful use). In other words a “tolerated trespasser” is still a trespasser.”*

4.23 It was further pointed out in **Barkas** that a use “by right” was *precario*, namely with permission, and on that basis not “as of right”. Lord Carnwath stated at paragraph 51:

*“Those arguments have proceeded on the footing that in effect the sole issue is whether the use of the recreation ground by local inhabitants has been “as of right” or “by right”, **the latter expression being treated as equivalent to “by licence” (or “precario”)** in the classic tripartite formulation (*nec vi, nec clam, nec precario*) as endorsed by Lord Hoffmann in the *Sunningwell* case.”* (My emphasis).

4.24 The Supreme Court went on to overrule the previous decision of the House of Lords in **Beresford** having found that it was wrongly decided. In **Beresford**, the land subject to a village green application had been acquired by a Development Corporation under the then New Towns Act 1965 and had been provided as open land for public recreational use pursuant to its statutory powers thereunder. It was transferred to the Commission for New Towns and continued to be maintained as public open space under the statutory

powers of town corporations. It was subsequently transferred to Sunderland City Council. In such circumstances, applying the principles laid down in **Barkas**, that land was being used by the public “by right” as it was provided and maintained as public open space pursuant to statutory powers. The public were not using it as trespassers. Hence, it was found in **Barkas** that such land should not have been registered as a village green.

4.25 Applying those established legal principles to the evidence, the Land is owned by Coventry City Council, a local authority, as was the position in **Barkas**. It was apparently transferred to the City Council pursuant to a formal Transfer dated 2 January 1992, namely prior to the commencement of the relevant 20 year period. I say “apparently” as the Plan stated in the Transfer to be annexed has not been able to be located, and I have not had sight of the Land Registry documents relating to the specific Title Numbers stated in that Transfer. Therefore, I have been unable to confirm from the documents supplied by the Objector that the Transfer specifically related to the Land. I recommend that the Registration Authority checks the current title documents held by the Land Registry in relation to the Land prior to the determination of the Application to ensure that the Transfer relates to the Land. For the purposes of this Report, given that ownership of the Land is undisputed, that the description of the land in the Transfer appears to relate to the Land, and that the Landowner has stated in its unchallenged representations that the Land was thereby transferred, I find on the basis of the evidence submitted that, on the balance of probabilities, the Land was transferred to the Council by that Transfer.

4.26 The Transfer does not identify the purpose for which the Land was acquired. According to the Landowner’s representations dated 22 October 2019: “*The Land was later appropriated as Public Open Space under the normal formal process.*” Unfortunately, despite a request, the Landowner has not produced any documentation in support of such an appropriation. I must make my findings on the basis of the evidence made available. If any further supporting or contradictory evidence relating to my findings is made available

to the Registration Authority prior to it reaching its decision, such evidence must of course be taken into account by the Registration Authority in determining the Application.

4.27 From the evidence I have, the Land was subject to a Section 52 Agreement dated 19 May 1982 made under the Town and Country Planning Act 1971 requiring the then landowners and developers of the Allesley Green Estate to provide a community playing field and a fully equipped children's play area upon it. It is undisputed that shortly afterwards, the Land was laid out as an area of open space available to the public with an equipped children's play area upon it, and that it has been used by the public as such subsequently. There is a definitive footpath along the north west boundary of the Land and a claimed footpath through the Land. The Land is recorded by the Landowner as "Parkhill Drive Public Open Space" in its record produced at Annexure 8 to its representations and is subject to its Green Space Strategy. The documentation provided by the Landowner also includes correspondence between the Applicants and the Landowner demonstrating that the Land has been maintained by the Landowner as public open space.

4.28 From such documentary evidence, I find that the Land has been owned by the current Landowner, Coventry City Council, since 1992, namely throughout the relevant 20 year period. It was acquired as a recreational area of open space laid out for public use. It has continued throughout the 20 year period to be laid out as a recreational area of open space for public use and has been maintained as such by the Landowner. I therefore further find that, given the above, the Land appears on the balance of probabilities to be held by the Landowner as recreational public open space.

4.29 Applying the legal position to such findings, as the Land has been owned and held by a local authority for the very purpose of public recreation, laid out as such and maintained as such, and so used by the public throughout the relevant 20 year period, the public

have had, and continue to have, a right to use it. They have not used it as trespassers; rather, they were and are entitled to use it for recreational purposes. In such circumstances, it is my opinion that the Land has been used “by right”, namely the use has been *precario* and not “as of right”. Consequently, I conclude that that element of the statutory criteria has not been established.

### **Continuation of Use**

4.30 As to the final element of the statutory criteria, I find from the evidence that the use of the Land continued up until the date of the Application, namely 29 November 2018. Indeed, the Land remains open to public access as evidenced on my site visit, and the evidence indicates that it continues to be used for recreational purposes, albeit not “as of right”.

## **5. CONCLUSIONS AND RECOMMENDATION**

5.1 My overall conclusions are therefore as follows:-

- 5.1.1 That the Application Land comprises land that is capable of registration as a town or village green in principle;
- 5.1.2 That the relevant 20 year period is 29 November 1998 until 29 November 2018;
- 5.1.3 That Allesley Green is a qualifying neighbourhood;
- 5.1.4 That the Application Land has been used for lawful sports and pastimes by a significant number of the inhabitants of Allesley Green throughout the relevant 20 year period;
- 5.1.5 That the recreational use of the Application Land has been “by right” and not “as of right” throughout the relevant 20 year period; and
- 5.1.6 That the use of the Application Land for lawful sports and pastimes continued up until the date of the Application.

5.2 In view of those conclusions, it is my recommendation that the Registration Authority should reject the Application and should not add the Application Land or any part of it to its register of town and village greens for the reasons contained in this Report, and on the specific ground that the Application Land has been used “by right” and not “as of right” throughout the relevant 20 year period.

**RUTH A. STOCKLEY**

04 February 2020

Kings Chambers  
36 Young Street Manchester M3 3FT  
5 Park Square East Leeds LS1 2NE  
and  
Embassy House, 60 Church Street, Birmingham B3 2DJ

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## **Public report** Planning Committee Report

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**Report to**  
Planning Committee

**Report of**  
Head of Planning and Regulation

**Ward(s) affected:**  
All

**Title:**  
Appeals progress report

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**Is this a key decision?**  
No

This report is for information

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### **Executive Summary:**

The appeals progress report provides a summary of appeal decisions in order to keep Members informed about planning and enforcement appeals made against planning decisions taken by the City Council.

### **Recommendations:**

Planning committee are recommended to note the content of the report

### **List of Appendices included:**

None

### **Background papers:**

N/A

**Other useful documents**

None

**Has it been or will it be considered by Scrutiny?**

No

**Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?**

No

**Will this report go to Council?**

No



## **Report title: Appeals progress report**

### **1. Context (or background)**

The purpose of this report is to inform Members of appeals lodged and determined in the period 1 November 2019 to 31 December 2019.

When a planning application is refused, the applicant has the right to appeal within six months of the date of decision for non-householder appeals. For householder applications the time limit to appeal is 12 weeks. Appeals can also be lodged against conditions imposed on a planning approval and against the non-determination of an application that has passed the statutory time period for determination.

Where the Council has taken enforcement action, the applicant can lodge an appeal in relation to the served Enforcement Notice. An appeal cannot be lodged though in relation to a breach of condition notice. This is on the basis that if the individual did not agree with the condition then they could have appealed against the condition at the time it was originally imposed.

Appeals are determined by Inspectors appointed by the Secretary of State and administered independently by the Planning Inspectorate.

### **2. Recommendation**

Members are requested to note the appeal decisions of either the Secretary of State or the relevant Inspector that has been appointed to determine appeals within the defined period.

In line with the parameters above the report sets out the main issues of the appeals and summarises the decisions. Where claims for costs are made and/or awarded, either for or against the Council, the decisions have been included within the report.

### **3. Monitoring**

Monitoring of all appeal decisions is undertaken to ensure that the Council's decisions are thoroughly defended and that appropriate and defensible decisions are being made under delegated powers and by Planning Committee. The lack of any monitoring could encourage actions that are contrary to the Council's decision, possibly resulting in poor quality development and also costs being sought against the Council.

### **4. Financial & legal considerations**

An appeal may be determined after a Public Inquiry, a Hearing or most commonly written representations. It is possible for cost applications to be made either by the appellants against the Council or vice versa if it is considered that either party has acted in an unreasonable way.

It is possible for decisions, made by Inspectors on appeal to be challenged through the courts. However, this is only if it is considered that an Inspector has erred in law, for instance by not considering a relevant issue or not following the correct procedure.

A decision cannot be challenged just because a party does not agree with it. A successful challenge would result in an Inspector having to make the decision again following the correct procedure. This may ultimately lead to the same decision being made.

It is possible for Inspectors to make a 'split' decision, where one part of an appeal is allowed but another part is dismissed.

## 5. Equality implications

Section 149 of the Equality Act 2010, known as the Public Sector Equality Duty, requires the Council to eliminate discrimination, harassment and victimisation, advance equality of opportunity and foster good relations between people. The appeal decisions summarised in this report do not raise any equality issues for the Council.

### SUMMARY OF APPEALS IN PERIOD OF 1 NOVEMBER TO 31 DECEMBER 2019

<b>No. APPEALS PENDING</b>	<b>19</b>
<b>No. APPEALS RECEIVED</b>	<b>7</b>
<b>No. APPEAL DECISIONS RECEIVED</b>	<b>31</b>
<b>No. ENFORCEMENT APPEALS LODGED</b>	<b>0</b>
<b>No. ENFORCEMENT APPEAL DECISIONS RECEIVED</b>	<b>0</b>
<b>No. OFFICER DECISIONS ALLOWED</b>	<b>3</b>
<b>No. MEMBER DECISIONS ALLOWED</b>	<b>-</b>

Site Address:	OS The Richard Crossman building Jordan Well
Reference Number:	ADV/2018/2010 (Appeal E)
Description:	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk
Decision Level:	Delegated
Decision:	Refused on 11/09/2019
Appeal Decision:	<i>Dismissed on 07/11/2019</i>

Site Address:	OS Cosy Club Cathedral Lanes Shopping Centre
Reference Number:	ADV/2018/2011 (Appeal A)
Description:	Installation of a freestanding single-sided internally-

	illuminated digital display screen in association with telephone kiosk
Decision Level:	Delegated
Decision:	Refused on 28/08/2019
Appeal Decision:	<i>Dismissed on 07/11/2019</i>

Site Address:	Lady Godiva News Broadgate
Reference Number:	ADV/2018/2012 (Appeal D)
Description:	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk
Decision Level:	Delegated
Decision:	Refused on 11/09/2019
Appeal Decision:	<i>Dismissed on 07/11/2019</i>

Site Address:	Adjacent to Primark Broadgate
Reference Number:	ADV/2018/2013 (Appeal B)
Description:	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk
Decision Level:	Delegated
Decision:	Refused on 11/09/2019
Appeal Decision:	<i>Dismissed on 07/11/2019</i>

Site Address:	2-10 Trinity Street
Reference Number:	ADV/2018/2014 (Appeal C)
Description:	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk
Decision Level:	Delegated
Decision:	Refused on
Appeal Decision:	<i>Dismissed on 07/11/2019</i>

### Summary of Decisions

The appeal decision relates to all 5 appeals above, as the Inspector considers they raise similar issues and are all located in walking distance of each other. The main issue in respect of the appeals is whether the proposed advertisements would be acceptable with respect to amenity and public safety.

### Appeal A

The site is located in Broadgate, outside the Cosy Club restaurant and the Inspector notes there is limited advertising around the appeal site. He considers that advertisement would be displayed in a prominent position towards the outer edge of the footway where it would be conspicuous and the modern design of the proposal would be incongruous in this location in close proximity to the High Street Conservation Area and Grade II listed buildings. The Inspector concludes that the advertisement would harm the amenity of the area through its adverse effect on the character and appearance of the adjoining conservation Area and on the setting of

the nearby Listed Buildings although he does not consider that the proposal would result in harm to public safety.

#### Appeal B

The advertisement would be located between the Grade I listed Holy Trinity Church and Primark, standing end on to the grassed area between them and in a prominent location. The Inspector notes there is limited visual clutter in the area with no advertisements nearby and concludes that the advertisement would harm the amenity of the area, by adversely affecting the settings of Holy Trinity Church and the neighbouring Hill Top Conservation Area, although he does not consider the proposal would cause an obstruction or result in harm to public safety.

#### Appeal C

The site is located close to the locally listed Flying Standard PH, listed Holy Trinity Church and within the Hill Top Conservation Area, where there is no visual clutter or illuminated advertisements. The Inspector considers the advert would be prominently sited on a broad area of pavement and would introduce a conspicuous and discordant feature that would intrude on views of the public house and would harm the amenity of the area affect the settings of the Hill Top Conservation Area and locally listed PH. He also concludes that the given the location of the advertisement in an area with a conglomeration of pedestrian routes and busy road and its proposed siting close to a pedestrian crossing, that it could lead to issues with visibility and pedestrian flow causing harm to public safety.

#### Appeal D

The advertisement would be located in Broadgate where the Inspector notes there is a pattern of street furniture with benches and trees and he considers that the location of the advertisement to the side of one of the benches would appear as a discordance feature in comparison to the linear pattern of the benches. He also notes the location in close proximity to the listed Broadgate House and concludes that the advertisement would harm the amenity of the area, including the setting of Broadgate House, although he does not consider it would cause any harm to public safety.

#### Appeal E

The advertisement would be located on Jordan Well where there is a row of trees, cycle rack and an existing advertisement display just beyond the appeal site. The Inspector considers that as there is an existing advertisement, a further display would add to visual clutter and would harm the amenity of the immediate area. He also notes the proposed location adjacent to the end of a zigzag section of the pedestrian crossing where pedestrians may step out from behind the screen into the carriageway and therefore finds it would cause harm to public safety.

#### Conclusion

The Inspector finds that the proposals would be detrimental to the amenity of the area and in appeals A, B, C and D would harm the significance of designated heritage assets. He identifies conflict with Policy DE1 of the CLP and Policy CC1 of the CCCAAP. In appeals A, B, C and D he also notes conflict with Policy HE2 of the CLP and in appeals C and E conflict with Policies AC2 and AC4 of the CLP and Policy CC1 of the CCCAAP. The Inspector concludes that the harm to

designated assets in appeals A, B, C and D would be less than substantial but that consent should only be granted if public benefits would outweigh harm. He considers that there would be limited economic benefits and that these would not outweigh the harm identified.

Site Address:	Outside the Richard Crossman Building Jordan Well
Reference Number:	TELO/2018/1993 (Appeal E)
Description:	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk
Decision Level:	Delegated
Decision:	Refused on 28/08/2019
Appeal Decision:	<i>Dismissed on 07/11/2019</i>

Site Address:	Outside Cosy Club Cathedral Lanes Shopping Centre
Reference Number:	TELO/2018/1994 (Appeal A)
Description:	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk
Decision Level:	Delegated
Decision:	Refused on 28/08/2019
Appeal Decision:	<i>Dismissed on 07/11/2019</i>

Site Address:	Os Lady Godiva News Broadgate
Reference Number:	TELO/2018/1995 (Appeal D)
Description:	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk
Decision Level:	Delegated
Decision:	Refused on 28/08/2019
Appeal Decision:	<i>Dismissed on 07/11/2019</i>

Site Address:	Adj Primark Broadgate
Reference Number:	TELO/2018/1996 (Appeal B)
Description:	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk
Decision Level:	Delegated
Decision:	Refused on 28/08/2019
Appeal Decision:	<i>Dismissed on 07/11/2019</i>

Site Address:	Adj The Flying Standard Trinity Street
Reference Number:	TELO/2018/1997 (Appeal C)
Description:	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk
Decision Level:	Delegated

Decision:	Refused on 28/08/2019
Appeal Decision:	<i>Dismissed on 07/11/2019</i>

### Summary of Decisions

The appeal decision relates to all 5 appeals above, as they raise similar issues. The GPDO has been amended by removing permission for the installation, alteration or replacement of a public call box but the appeal has been determined under transitional and savings provisions which apply, as they were made prior to the changes taking effect. The Inspector notes Schedule 2, Part 16, Class A of the GPDO refers to development 'by or on behalf of an electronic communications code operation for the purposes of the operators electronic network'. The High Court ruling in the Westminster Judgement found that the whole development for which prior approval is sought must fall within the class relied on.

The main issue in each of the appeal having regard to the Westminster Judgement is whether the proposals are solely for the purpose of the operator's electronics communications network.

The Westminster Judgement stated that if a development is partly for the purpose of an operator's network and partly for some other purpose, it cannot be said that the development fall within the GPDO as part of the development falls outside it. The Inspector notes that the technical specification refers to the 'advertised side' of the apparatus designed to show commercial and community information and considers that as one side of the kiosk would be for the display of digital advertisements, it would contain features not solely for the telecommunications function. He concludes that the apparatus would fall outside Schedule 2, Part 16, Class A of the GDPO and therefore does not need to consider the issues of siting or appearance that where set out in the Council's reason for refusal.

Site Address:	1 Seagrave Road
Reference Number:	FUL/2019/1101
Description:	Change of use of a 6 bed house in multiple occupation (HMO, use class C4) into a 7 bed HMO (sui generis), retention of a boundary fencing and provision of parking spaces
Decision Level:	Delegated
Decision:	Refusal on 03/07/2019
Appeal Decision:	<i>Dismissed on 12/11/2019</i>

### Summary of Decision

The main issues are the effect of the proposal on: the living conditions of neighbouring occupiers, with particular regard to noise and disturbance; and the character and appearance of no.1 Seagrave Road and the wider area.

The appeal property is an extended two-story end of terrace on a corner site on Seagrave Road, close to the junction with Acacia Avenue in a predominantly residential area characterised by rows of terraced properties. It has been used as a HMO for up to 6 people for a number of years. The Inspector notes that an

increase in the number of occupants would result in a limited increase in activity and where there is no operational development this may not be perceptible. However in this case, the concern is from the additional off-street parking spaces which cover a large expanse of the rear garden and provide parking for 2 vehicles. The Inspector considers that the siting of the parking area adjacent to neighbours rear gardens where they could reasonably expect a degree of peace and quiet away from the road frontage, would result in significantly more disturbance to neighbouring occupiers and consequently would harm the living conditions of neighbouring occupiers, in conflict with Policy H11 of the CLP.

In looking at character and appearance, the Inspector notes that the hardstanding covers a wide expanse of the original garden and does not include any areas of soft landscaping. She concludes that the hardstanding is readily apparent in the street scene and appears at odds with the wider locality as the extent of the parking area, its elevated position in relation to the dwelling and the manner in which it is fenced off are not characteristic features of back gardens in the locality. Consequently the proposal harms the character and appearance of the host dwelling and the wider area in conflict with Policies DE1, H5 and H11 of the CDP.

Site Address:	Carpet Castle Willenhall Lane
Reference Number:	OUT/2018/3101
Description:	Demolition of existing building and erection of hotel (outline application with all matters reserved)
Decision Level:	Delegated
Decision:	Refusal on 12/02/2019
Appeal Decision:	<i>Allowed on 22/11/2019</i>
Cost Decision:	<i>Refused on 22/11/2019</i>

#### Summary of Decision

The main issues are: the effect on the vitality and viability of existing centres; and whether the proposed development would provide a satisfactory environment for future occupants of the hotel, having regard to the presence of nearby industrial and commercial uses.

The appeal site is not located within a defined centre and therefore Policy R4 of the CLP requires a sequential assessment and impact test. The appellant states that the hotel is intended to serve guests in transit on the eastern side of the city on the M69/M6/A46/M40 road corridors and the Inspector is satisfied that the catchment area for the relevant assessments is appropriate on the basis of the customer base indicated. The Inspector does not consider that the nature of the development proposed would be particularly suited to the City Centre despite the availability of brownfield sites there. Furthermore, in looking at the major district centres identified with Policy R3 of the CDP, the Inspector considers that only the Brandon Road MDC is in proximity to the eastern transport corridor and for the purposes of the sequential test this is the only centre necessary to consider although the appellant has also considered the Brad Drive district centre.

The Inspector notes that Brandon Road MDC is a purpose built centre occupied by a supermarket, a number of large units housing national retailers, a number of smaller units, hotel, cafés and a TGI Fridays restaurant. Whilst there are a small number of vacant units within the centre these are dispersed across the centre and the Inspector is not convinced that any of these vacant units would be of a size or layout that would accommodate the proposal, even with some flexibility. The Inspector considers Brandon Road MDC to be a busy and well used centre with no evidence to suggest that its car parks are surplus or that they would be capable of accommodating the proposed development and is satisfied that it has been demonstrated that there are no sequentially preferable sites available within the centre. The site at 350m from the Brandon Road MDC, is just over the 300m threshold for edge of centre sites set out in Policy R4, and whilst the Inspector notes this is only marginally over and the site is well connected to the centre, as it is technically out of centre this limited policy conflict centre must still be taken into account.

In looking at the impact test, having regard to the hotel's intended function and likely customer requirement with regard to accessibility in relation to the transport corridor to the east of the City, the Inspector considers the effects would be relatively localised and is satisfied that it would not have likely adverse implications for other hotels within the city centre or other MDC's and that the scope of the appellants impact test is appropriate. The Inspector is satisfied that the existing hotel within the Brandon Road MDC would not be unduly affected by the proposed development and that it would not directly compete with any other retail units within the centre as any restaurant/bar and fitness centre within the development would be ancillary to the main hotel use and would not impact on uses within the centre and concludes that the proposal would not conflict with Policies R3 or R4 of the CLP.

In looking at the issue of a satisfactory environment for future occupiers, the Inspector is satisfied that the site is large enough to accommodate a hotel and to allow some flexibility in its specific location to minimise proximity and exposure to adjacent industrial and commercial sites and that noise mitigation measures could be dealt with at the reserved matters stage.

The Inspector concludes that whilst not within the city centre, the proposed hotel would contribute towards the provision of hotel accommodation. The existing offices appear to have been vacant for some time and a hotel would provide employment opportunities and would be likely to have greater economic benefits for the area. He is satisfied that the scope of the sequential and impact assessments are sufficient and concludes that the likely economic and employment benefits of the proposed development represent material considerations that outweigh the minor technical conflict with sequential test policy.

The appeal is allowed with conditions regarding: submission of reserved matters; submission of site investigation reports; submission of drainage details; submission of a construction method statement; and submission of an employee recruitment scheme.

Cost Decision



The Inspector considered that the Councils requirement with regard to the provision and scope of the sequential and impact tests were identified in it's pre-application response were not unreasonable and were adequately substantiated even though they reached a different conclusion with regard to the scope of the tests. The Inspector considers that the council's concerns were clearly articulated and that the reasons for refusal were substantiated and that the council was not unreasonable in coming to the conclusion that it did as a matter of planning judgement and with reference to the NPPF. Even if further information had been requested at the application stage this would not necessarily overcome the need for an appeal. Whilst the questionnaire was submitted late, the statement was provided on time and the Inspector does not consider that this prejudiced the appellants ability to respond or constituted unreasonable behaviour. She concludes that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

Site Address:	51 Thistley Field South
Reference Number:	HH/2019/0847
Description:	First floor Rear and Single Storey Side Extensions
Decision Level:	Delegated
Decision:	Refusal on 22/05/2019
Appeal Decision:	<i>Dismissed on 25/11/2019</i>

#### Summary of Decision

The main issues are: the effect of the first floor rear extension on the living conditions of the occupiers of No. 53 Thistly Field South, with particular regard to outlook and light; and the effect of the side extension on the character and appearance of the area.

The appeal property is a two-storey detached dwelling on a corner plot. The extension would be located above the cat-slide roof to the rear, adjacent to the boundary with No.53. The Inspector notes that although the extension would be set back 1m from the eaves of the cat-slide roof, its height and depth would result in significant bulk close to the boundary and first floor bedroom window on the neighbouring dwelling. It is recognised that the affected window is secondary but the Inspector still considers that this provides the neighbouring occupiers with outlook to the rear and that the significant increase in massing would exacerbate the limited outlook and result in a poor and dismal outlook for the neighbouring occupiers.

In looking at character and appearance, the Inspector notes that the proposed side extension would occupy a visually prominent open space at the road junction and would be a large addition that would project beyond the return building line along Holloway Field. She considers that this would disrupt the established pattern and layout of this part of the estate and would have a harmful effect on the character and appearance of the area, contrary to Policy DE1 of the CLP.

Site Address:	117 Blackberry Lane
Reference Number:	PA/2019/1608
Description:	Application under Prior Approval for rear extension. The extension will be 6.0 metres away from the original rear wall of the building with a height of 4.0 metres at the highest point and 2.7 metres to the eaves
Decision Level:	Delegated
Decision:	Refusal on 30/07/2019
Appeal Decision:	<i>Dismissed on 27/11/2019</i>

#### Summary of Decision

The main issue is whether the proposed development would be permitted under Schedule 2, Part 1, Class A of the town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

The proposed extension would extend 4m to the rear of the dwelling and would link to an existing side and rear extension. Subsection J of Class A of the GPDO states that where the enlarged part of the dwelling would extend beyond a wall forming a side elevation of the original dwellinghouse, it should not have a width greater than half the width of the existing dwellinghouse. In this case the rear extension would connect to the existing side and rear extension to wrap around the dwellinghouse and the restrictions of subsection J apply and the Inspector notes that the entire width of the dwelling needs to be considered which in this case is greater than half the width of the dwelling.

Whilst the Inspector notes that prior approval may have been granted previously for a similar scheme, with regard to the appeal, he concludes that the proposal would fall outside the scope of permitted development rights.

Site Address:	267 Sewall Highway
Reference Number:	HH/2019/1650
Description:	Installation of footway crossing for vehicular access including a dropped kerb
Decision Level:	Delegated
Decision:	Refusal on 16/08/2019
Appeal Decision:	<i>Dismissed on 11/12/2019</i>

#### Summary of Decision

The main issue is the effect of the proposed development on highway safety. The appeal site is located on Sewall Highway which is a well trafficked road with on-street parking and a bus proximity in close proximity to the disabled parking space which is currently located on the highway to the front of the site.

The Inspector notes that the hardsurfacing proposed for the site would be of insufficient size to allow vehicles to turn around which is likely to result in vehicles exiting the site in reverse. Given that on-street parking takes place both on the highway and the verge and there is a nearby bus stop, the Inspector concludes that the proposed dropped kerb would unacceptably increase the likelihood of conflict between pedestrians, cyclists and motorists and would impeded the safe flow of traffic.

Whilst the Inspector acknowledges the difficulties experienced by the applicant, he considers that the wider public interest and safety of highway users must be determinative in this instance and concludes that the proposal would have an unacceptable impact on highway safety, contrary to the principles of Policy AC2 of the CLP.

Site Address:	34 Prior Deram Walk
Reference Number:	FUL/2019/1578
Description:	Change of use from retail shop (Use Class A1) to Hot Food Takeaway (Use Class A5); erection of single storey rear extension; and installation of external extraction equipment to rear roof
Decision Level:	Delegated
Decision:	Refusal on 12/08/2019
Appeal Decision:	<i>Dismissed on 12/12/2019</i>
Costs Decision:	<i>Refused on 12/12/2019</i>

#### Summary of Decision

The main issues are: whether or not the development would result in an overconcentration of hot food takeaways; and the effect of the development on the living conditions of nearby residents.

The appeal site is not located within a defined centre. A sequential test provided demonstrates that there are no sequentially preferable sites available within defined centres. The SPD identifies that where a site falls within a Lower Super Output Area (LSOA) and the number of takeaways per 1000 population exceeds the average for England (as per the most up to date figures of the FEAT tool) then the area is considered to be over-concentrated. The Inspector notes that there are a number of other hot food takeaways within the same parade of units as the appeal site and that in this LSOA has already been demonstrated to be over-concentrated. No evidence is provided to demonstrate why a wider LSOA should be considered and it is not possible to control the type of food that is sold to restrict unhealthy choices and therefore the Inspector finds the proposal would be in an area with an over-concentration of hot food takeaways which would be in conflict with Policy R6 and the SPD.

In looking at living conditions, it is noted that the proposals include the installation of a flue to the rear which would be next to the first floor flat. The Inspector considers that specific details would need to be provided to demonstrate that a suitable method of odour and noise extraction could be achieved and on the basis of the information provided cannot conclude that the development would not result in harm to the living conditions of adjoining residents.

#### Cost decision

The appellants case is that the Council failed to engage with them during the application process to overcome the issues relating to the refusal and that the appeal questionnaire was submitted after the deadline. The Inspector is satisfied that the Council's approach was reasonable and justified as seeking additional

information would not have overcome the principle objection and would have put the applicant to additional expense that would have not altered the outcome. He also notes that there is no case to demonstrate how the delayed questionnaire has resulted in wasted expense in the appeal process. Consequently the Inspector concludes that unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated.

Site Address:	80 Rotherham Road
Reference Number:	HH/2019/1426
Description:	Erection of single storey side extension
Decision Level:	Delegated
Decision:	Refusal on 23/08/2019
Appeal Decision:	<i>Allowed on 13/12/2019</i>

#### Summary of Decision

The main issue is the effect of the development on the character and appearance of the area. The appeal site is an end of terrace dwelling on a corner plot at the junction with Blenheim Avenue. The proposal is for a single storey side extension that would extend up to the side boundary which would not meet the requirements of the householder SPG in terms of retaining a minimum distance of 2m from the side boundary and not projecting beyond established building lines.

The inspector notes that No.80 has a tall brick wall to the boundary and whilst the extension would be visible from the front and rear above the boundary wall he considers it would be sufficiently screened and of a modest size which would not appear dominant or incongruous within the street scene. He acknowledges that the extension would project up the side boundary but considers that the boundary wall already impedes openness and in the built-up context of the surroundings does not consider the requirement to maintain 2m to the boundary to be essential in maintaining the character of the area. It is also noted that the extension would sit forward of the established building line on Blenheim Avenue but the inspector considers this to be at a significant distance from the properties to the rear.

The Inspector concludes that as a result of the scale and positioning of the proposed development and the existing side boundary treatment, the proposed side extension would not adversely impact on the openness of the plot or be harmful to the character and appearance of the surroundings. The appeal is allowed with conditions requiring: development to commence within 3 years; and development to be carried out in accordance with the approved plans.

Site Address:	The Pilot Hotel Catesby Road
Reference Number:	FUL/2018/3473
Description:	Use of part of car park for car sales (sui generis)
Decision Level:	Delegated
Decision:	Refusal on 12/12/2018
Appeal Decision:	<i>Dismissed on 16/12/2019</i>

#### Summary of Decision

The main issue is the effect on the setting of the listed building and surrounding area.

The appeal relates to part of the open car park that surrounds the Grade II listed public house. The PH has a prominent position with frontage to 3 roads. The Inspector considers the car park provides a symmetrical and well balanced area of land around the PH providing an uncluttered setting which adds to the significance of the building.

In the Inspectors view it is likely that signage and other features associated with a car sales operation would be likely to have a considerable presence on the setting and curtilage of the listed building and would have a harmful effect on the residential character of the area, most notably on Rollason Road. He notes that there are other commercial uses on the site and that the proposed use would provide income to the PH which is currently running at a loss but considers this insufficient to outweigh the harm identified.

The Inspector concludes that the public benefit derived from the contribution to the overall business of the listed building is insufficient to outweigh the harm, even though this it 'less than substantial' and that the proposal is contrary to Policies DE1 and HE2 of the CLP.

Site Address:	Carphone Warehouse Market Way
Reference Number:	ADV/2018/2024 (Appeal A)
Description:	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk
Decision Level:	Delegated
Decision:	Refusal on 11/09/2019
Appeal Decision:	<i>Dismissed on 23/12/2019</i>

Site Address:	30 Market Way
Reference Number:	ADV/2018/2025 (Appeal F)
Description:	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk
Decision Level:	Delegated
Decision:	Refusal on 11/09/2019
Appeal Decision:	<i>Dismissed on 23/12/2019</i>

Site Address:	40-44 The Precinct
Reference Number:	ADV/2018/2018 Appeal (C)
Description:	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk
Decision Level:	Delegated
Decision:	Refusal on 11/09/2019

Appeal Decision:	<i>Dismissed on 23/12/2019</i>
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Site Address:	25 Upper Precinct
Reference Number:	ADV/2018/2019 Appeal (B)
Description:	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk
Decision Level:	Delegated
Decision:	Refusal on 11/09/2019
Appeal Decision:	<i>Dismissed on 23/12/2019</i>

Site Address:	14-16 Market Way
Reference Number:	ADV/2018/2022 Appeal (D)
Description:	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk
Decision Level:	Delegated
Decision:	Refusal on 11/09/2019
Appeal Decision:	<i>Dismissed on 23/12/2019</i>

Site Address:	10-12 Market Way
Reference Number:	ADV/2018/2023 Appeal (E)
Description:	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk
Decision Level:	Delegated
Decision:	Refusal on 11/09/2019
Appeal Decision:	<i>Dismissed on 23/12/2019</i>

### Summary of Decisions

As all six appeals above relate to the same form of advertisement on the same type of structure the Inspector has dealt with them all together. The main issues are the effect of the proposed advertisement on: the character and appearance of the area; and public safety.

The sites are all in close proximity to each other in the main shopping area and would be new additions to the street scene. The Inspector notes that the advertisements would be set within a shopping precinct that has a distinctive and coherent style which other than cluster of benches and the odd bin are devoid of extraneous structures. He notes that that lack of low level advertising (other than that in shopfronts) was striking and that two existing digital screens appeared incongruous, which would be the same for all of the advertisements proposed. He considers that the proposed advertisements would be in stark contrast to the clean uncluttered lines of the shopping precinct and they would be to the detriment of the area's appearance.

The Inspector notes that the advertisement in appeal D would be at the foot of Coventry Point, but as this is being demolished considers that this too would hold a prominent position. On the matter of amenity, he concludes that the proposed

advertisement would appear out of place and at odds with the area's wider aesthetic.

On the issue of public safety, the Inspector notes that the concerns for the potential of collisions between pedestrians is not without foundation as the advertisements would be located near the porticos overhanging the shopfronts, which he considers is where the greatest pedestrian flows are likely to occur.

The Inspector concludes that the proposed advertisements would harm the amenity of the area concerned. Other than the proposal under Appeal D, they would also be likely to cause harm to public safety and, as such, a precautionary approach is warranted. Even if he were to have found otherwise he would still have concluded that, due to the harm to amenity, the appeal should be dismissed.

Site Address:	Os JD Sports The Precinct
Reference Number:	TELO/2018/2001 (Appeal C)
Description:	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk
Decision Level:	Delegated
Decision:	Refusal on 28/08/2018
Appeal Decision:	<i>Dismissed on 23/12/2019</i>

Site Address:	Os JD Clinton Cards 25-27 Upper Precinct
Reference Number:	TELO/2018/2002 (Appeal B)
Description:	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk
Decision Level:	Delegated
Decision:	Refusal on 28/08/2018
Appeal Decision:	<i>Dismissed on 23/12/2019</i>

Site Address:	Adj Halifax 14 Market Way
Reference Number:	TELO/2018/2005 (Appeal D)
Description:	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk
Decision Level:	Delegated
Decision:	Refusal on 28/08/2018
Appeal Decision:	<i>Dismissed on 23/12/2019</i>

Site Address:	IFO Poundland Market Way
Reference Number:	TELO/2018/2006 (Appeal E)
Description:	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk
Decision Level:	Delegated

Decision:	Refusal on 28/08/2018
Appeal Decision:	<i>Dismissed on 23/12/2019</i>

Site Address:	Adj Carphone Warehouse Market Way
Reference Number:	TELO/2018/2007 (Appeal A)
Description:	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk
Decision Level:	Delegated
Decision:	Refusal on 28/08/2018
Appeal Decision:	<i>Dismissed on 23/12/2019</i>

Site Address:	OS Max Mobility 30 Market Way
Reference Number:	TELO/2018/2008 (Appeal F)
Description:	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk
Decision Level:	Delegated
Decision:	Refusal on 28/08/2018
Appeal Decision:	<i>Dismissed on 23/12/2019</i>

#### Summary of Decisions

All six appeals relate to the same form of apparatus in the same area and so have been dealt with together.

Although there have been changes that amend the GPDO provisions for electronic communications code operators, the appeals are subject to transitional and saved provisions, so are considered against the provision of Schedule 2, Part 16, Class A of the GPDO. In the Westminster judgement the court found that ‘the whole development for which prior approval is sought must fall within the Class relied on, and no part of it can fall outside it. Otherwise, the general permission in the GPDO, and the restricted range of consideration would be applied to development which falls outside the scope of the permission’ and this has been taken into consideration in determining the appeals.

The main issue is whether the proposals were solely for the purpose of the operator’s electronic communications network. The technical specification clearly shows an advertising side with outdoor advertising panel and from this it is clear to the Inspector that the proposed apparatus would contain features distinct from the purpose of the operator’s network which are not a telecommunications function.

The Inspector concludes that the apparatus would be for the purpose of the operator’s telecommunications network and for the purpose of commercial display and accordingly the proposals fall outside the scope of Schedule 2, Part 16, Class A of the GPDO.



Site Address:	189 and 191 Charter Avenue
Reference Number:	FUL/2019/0232
Description:	Change of use of two dwelling houses (Use Class C3) to two 10 bedroomed (10 persons) Houses in Multiple Occupation (HMO, sui generis)
Decision Level:	Delegated
Decision:	Refusal on 24/04/2019
Appeal Decision:	<i>Dismissed on 24/12/2019</i>

### Summary of Decision

The main issues are: the effect of the proposal on the character and appearance of the area; and whether or not the proposal would give rise to inconvenience for road users on Charter Avenue arising from additional demand for on-street parking.

The Inspector notes that Charter Avenue is predominantly residential in character, although it is apparent that HMO uses are prevalent in the area. He notes that the appeal properties have permission for use as large HMOs for 7 residents in each case and that the proposal would not result in any changes to the external appearance of the buildings and that the increase in internal activity is unlikely to be perceptible to neighbouring occupiers. However, he considers there would be a marked increase in the potential number of occupants across the properties from 14 to 20 and that this would put strain on the external areas to the site frontage. In his view, the number of vehicles parked in this area would result in a tighter parking arrangement and the cumulative demand for parking from occupants and visitors is likely to increase parking on the road and verges which would draw attention to the more intensive use of the site to the detriment of the character and appearance of the area.

In addition to this the Inspector notes that the increase in occupants is likely to increase bin storage requirements and that the bin storage area proposed to the rear is unlikely to be convenient, with responsibility for returning bins to this likely to be unclear, given the number of occupants and likely turnover of tenants. He considers this to be a further indicator that the intensification of use would have a deteriorating impact on the character and appearance of the area. Furthermore, as the neighbouring properties have permission for HMO use, he considers an over-intensive use of the appeal site and any cumulative impact with neighbouring HMOs has the potential to increase the presence of HMOs to the detriment of the residential character of the area. On this matter the Inspector concludes that the proposal would be over-intensive and would increase the prominence of the HMOs within the street scene to the detriment of the residential character and appearance of the area, contrary to Policies H10 and H11 of the CLP.

The Inspector notes that the proposal would require a maximum of 15 parking spaces on the basis of current parking standards and that the proposed 7 fall significantly short of this. Parking surveys submitted show that there is space for 25 vehicles along Charter Avenue but the highway authority argue that there is no additional capacity in view of recently approved planning applications. The Inspector notes that constraints of the parking forecourt on site would be likely to increase the potential for vehicles to be displaced onto the highway and that it appears that the parking of vehicles more often takes place on the verge. Given

the well-trafficked nature of the dual carriageway he is not convinced that the additional demand for parking could be accommodated without an increase in parking on the road which would have the potential to result in inconvenience for road users on Charter Avenue. Th Inspector concludes that the number of off-street parking paces to be provided would be a significant shortfall and contrary to the requirements of Policy AC3 and appendix 5 of the CLP.

## PLANNING APPEAL PROGRESS REPORT – SUMMARY TABLE

### CURRENT APPEALS LODGED

Application Reference & Site Address	Case Officer	Type	Proposal	Progress & Dates
<b>TP/2017/1283</b> 3 <b>Staircase Lane</b>	<i>Robert Penlington</i>	Written Representations	Oak tree – shorten x12 low branches by 4m from dwellings 1 & 3 Staircase Lane	Lodged date: 04/01/2018 Start date: 04/01/2018 Questionnaire: 31/01/2018
<b>FUL/2018/3300</b> 47A <b>Mayfield Road</b>	<i>Emma Spandley</i>	Informal Hearing	Change of use of existing ground floor shop (Use Class A1) and existing living accommodation (Use Class C3) into 2no. houses in multiple occupation (Use Class C4) (Retrospective).	Lodged date: 01/03/2019 Start date: 20/06/2019 Hearing date: 17/09/2019
<b>TP/2019/0505</b> 155 <b>Broad Lane</b>	<i>Robert Penlington</i>	Written Representations	Beech (T1) – Reduce lateral western crown back by approximately 2m (in line with boundary). Chestnut (T2) – Fell. Oak (T3) – Reduce western crown by approx. 2m (in line with boundary).	Lodged date: 07/05/2019 Start date: 07/05/2019 Questionnaire/statement date: 08/05/2019
<b>TP/2019/0732</b> Binley Business Park, Compton Court <b>Harry Weston Road</b>	<i>Robert Penlington</i>	Informal Hearing	T1 London Plane – fell and grind stump due to included fork replace with 12-14cm girth Liquidambar in same location	Lodged date: 10/06/2019 Start date: 19/06/2019 Questionnaire date: 31/07/2019
<b>TP/2019/0693</b> 7 <b>South Avenue</b>	<i>Robert Penlington</i>	Informal Hearing	T1 Lime – Re-pollard to original pollard heads at approximately 4-5m above ground level. T2 Lime – Re-pollard to original pollard heads at approximately 4-5m above ground level	Lodged date: 11/06/2019 Start date: 26/06/2019
<b>TP/2019/0628</b> 12 <b>Pinewood Grove</b>	<i>Robert Penlington</i>	Written Representations	6 Thuja trees – Trim heights by up to 2m, trim side growth to: club side by 1.5m, and to applicants side by up to 3m	Lodged date 12/06/2019 Start date: 12/06/2019 Questionnaire/statement: 16/06/2019

<b>FUL/2019/0975</b> 120 <b>Bridgeacre Gardens</b>	<i>Liam D'Onofrio</i>	Written Representations	Erection of a bungalow	Lodged date: 08/08/2019 Start date: 08/08/2019 Questionnaire/statement: 12/08/2019
<b>OUT/2018/3128</b> 55-77 <b>Stoke Row</b>	<i>Liam D'Onofrio</i>	Written Representations	Outline application for demolition of existing factory premises and erection of 46 residential apartments (matters of landscaping reserved for future consideration)	Lodged date: 12/08/2019 Start date: 27/08/2019 Questionnaire/statement:
<b>S73/2019/1391</b> 717 <b>Tile Hill Lane</b>	<i>Emma Spandley</i>	Written Representations	Variation of condition: No.2, (opening hours), imposed on planning permission R/2002/0193 for Change of use from a newsagent to a hot food takeaway granted on 19/05/2003 by appeal. (Resubmission of S73/2018/1833)	Lodged date: 03/09/2019 Start date: 30/09/2019 Questionnaire/statement:
<b>FUL/2019/0538</b> 148-150 <b>Clay Lane</b>	<i>Anne Lynch</i>	Written Representations	Change of use to A5	Lodged date: 11/09/2019 Start date: 01/11/2019 Questionnaire/statement: 04/12/2019
<b>FUL/2019/0125</b> 9-13 <b>Spon Street</b>	<i>Liam D'Onofrio</i>	Written Representations	Retention of two artificial palm trees	Lodged date: 13/09/2019 Start date: 17/10/2019 Questionnaire/statement: 12/11/2019
<b>LB/2019/0245</b> 9-13 <b>Spon Street</b>	<i>Liam D'Onofrio</i>	Written Representations	Listed Building Consent for the retention of two artificial palm trees	Lodged date: 13/09/2019 Start date: 17/10/2019 Questionnaire/statement: 12/11/2019
<b>HH/2019/1677</b> 6 <b>Baginton Road</b>	<i>Peter Anderson</i>	Written Representations	Erection of two storey side and rear extension, raised patio area and retaining wall	Lodged date: 04/11/2019 Start date: 19/12/2019
<b>FUL/2018/2584</b> 14 <b>Albany Road</b>	<i>Mary-Ann Jones</i>	Written Representations	Change of use to 10No. bedroomed House in Multiple Occupation (Use Class Sui Generis) (Retrospective)	Lodged date: 01/11/2019 Start date: 18/11/2019 Questionnaire/statement: 19/11/2019
<b>FUL/2019/1781</b> 89 <b>Windmill Road</b>	<i>Liam D'Onofrio</i>	Written Representations	Erection of two storey rear extensions and loft conversion to create eight additional HMO bedrooms	Lodged date: 12/11/2019 Start date: 11/12/2019  <b>COSTS APPLIED FOR</b>

<b>FUL/2019/1818</b> <i>Land at Brade Drive</i>	<i>Liam D'Onofrio</i>	Written Representations	Erection of a detached single storey building to accommodate a drive-thru coffee facility, car park and associated works	Lodged date: 22/11/2019 Awaiting start date
<b>FUL/2019/2485</b> <i>48 St Georges Road</i>	<i>Emma Spandley</i>	Written Representations	Change of use to an 7no. bedroomed, 7no. person House in Multiple Occupation (HMO) (Use Class Sui Generis). (Resubmission FUL/2019/0059)	Lodged date: 13/12/2019 Awaiting start date
<b>FUL/2019/2768</b> <i>88a Three Spires Avenue</i>	<i>Nigel Smith</i>	Written Representations	Change of use of existing dwelling to form three apartments and erection of rear extension	Lodged date: 13/12/2019 Awaiting start date
<b>FUL/2019/2617</b> <i>35-37 Stanley Road</i>	<i>Emma Spandley</i>	Written Representations	Erection of single storey detached structure	Lodged date: 14/12/2019 Awaiting start date

### APPEAL DECISIONS RECEIVED

Application Reference Site Address	Case Officer	Type	Proposal	Appeal Decision & date
ADV/2018/2010 OS The Richard Crossman building Jordan Well	Mary-Ann Jones	Written Representations	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk	Decision : <b>DISMISSED</b> <b>07/11/2019</b> decision type: <i>Delegated</i>
ADV/2018/2011 OS Cosy Club Cathedral Lanes Shopping Centre	Mary-Ann Jones	Written Representations	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk	Decision : <b>DISMISSED</b> <b>07/11/2019</b> decision type: <i>Delegated</i>
ADV/2018/2012 Lady Godiva News Broadgate	Mary-Ann Jones	Written Representations	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk	Decision : <b>DISMISSED</b> <b>07/11/2019</b> decision type: <i>Delegated</i>
ADV/2018/2013 Adjacent to Primark Broadgate	Mary-Ann Jones	Written Representations	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk	Decision : <b>DISMISSED</b> <b>07/11/2019</b> decision type: <i>Delegated</i>
ADV/2018/2014 2-10 Trinity Street	Mary-Ann Jones	Written Representations	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk	Decision : <b>DISMISSED</b> <b>07/11/2019</b> decision type: <i>Delegated</i>

TELO/2018/1993 Outside the Richard Crossman Building Jordan Well	Mary-Ann Jones	Written Representations	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk	Decision : <b>DISMISSED</b> <b>07/11/2019</b> decision type: <i>Delegated</i>
TELO/2018/1994 Outside Cosy Club Cathedral Lanes Shopping Centre	Mary-Ann Jones	Written Representations	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk	Decision : <b>DISMISSED</b> <b>07/11/2019</b> decision type: <i>Delegated</i>
TELO/2018/1995 Os Lady Godiva News Broadgate	Mary-Ann Jones	Written Representations	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk	Decision : <b>DISMISSED</b> <b>07/11/2019</b> decision type: <i>Delegated</i>
TELO/2018/1996 Adj Primark Broadgate	Mary-Ann Jones	Written Representations	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk	Decision : <b>DISMISSED</b> <b>07/11/2019</b> decision type: <i>Delegated</i>
TELO/2018/1997 Adj The Flying Standard Trinity Street	Mary-Ann Jones	Written Representations	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk	Decision : <b>DISMISSED</b> <b>07/11/2019</b> decision type: <i>Delegated</i>
FUL/2019/1101 1 Seagrave Road	Shamim Chowdhury	Written Representations	Change of use of a 6 bed house in multiple occupation (HIMO, use class C4) into a 7 bed HIMO (sui generis), retention of a boundary fencing and provision of parking spaces	Decision : <b>DISMISSED</b> <b>12/11/2019</b> decision type: <i>Delegated</i>
OUT/2018/3101 Carpet Castle Willenhall Lane	Anne Lynch	Written Representations	Demolition of existing building and erection of hotel (outline application with all matters reserved)	Decision : <b>ALLOWED</b> <b>22/11/2019</b> decision type: <i>Delegated</i>  <b>COSTS DECISION: REFUSED</b>
H/2019/0847 51 Thistley Field South	Peter Anderson	Written Representations	First floor Rear and Single Storey Side Extensions	Decision : <b>DISMISSED</b> <b>25/11/2019</b> decision type: <i>Delegated</i>

PA/2019/1608 117 Blackberry Lane	<i>Rhiannon Campbell</i>	Written Representations	Application under Prior Approval for rear extension. The extension will be 6.0 metres away from the original rear wall of the building with a height of 4.0 metres at the highest point and 2.7 metres to the eaves	Decision : <b>DISMISSED</b> <b>27/11/2019</b> decision type: <i>Delegated</i>
HH/2019/1650 267 Sewall Highway	<i>Rhiannon Campbell</i>	Written Representations	Installation of footway crossing for vehicular access including a dropped kerb	Decision : <b>DISMISSED</b> <b>18/10/2019</b> decision type: <i>Delegated</i>
FUL/2019/1578 34 Prior Deram Walk	<i>Mary-Ann Jones</i>	Written Representations	Change of use from retail shop (Use Class A1) to Hot Food Takeaway (Use Class A5); erection of single storey rear extension; and installation of external extraction equipment to rear roof	Decision : <b>DISMISSED</b> <b>12/12/2019</b> decision type: <i>Delegated</i>  <i>Costs decision refused on 12/12/2019</i>
HH/2019/1426 80 Rotherham Road	<i>Peter Anderson</i>	Written Representations	Erection of single storey side extension	Decision : <b>ALLOWED</b> <b>13/12/2019</b> decision type: <i>Delegated</i>
FUL/2018/3473 The Pilot Hotel Catesby Road	<i>Anne Lynch</i>	Written Representations	Use of part of car park for car sales (sui generis)	Decision : <b>DISMISSED</b> <b>16/12/2019</b> decision type: <i>Delegated</i>
ADV/2018/2024 Carphone Warehouse Market Way	<i>Mary-Ann Jones</i>	Written Representations	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk	Decision : <b>DISMISSED</b> <b>23/12/2019</b> decision type: <i>Delegated</i>
ADV/2018/2025 30 Market Way	<i>Mary-Ann Jones</i>	Written Representations	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk	Decision : <b>DISMISSED</b> <b>23/12/2019</b> decision type: <i>Delegated</i>
ADV/2018/2018 40-44 The Precinct	<i>Mary-Ann Jones</i>	Written Representations	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk	Decision : <b>DISMISSED</b> <b>23/12/2019</b> decision type: <i>Delegated</i>



ADV/2018/2019 25 Upper Precinct	Mary-Ann Jones	Written Representations	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk	Decision : <b>DISMISSED</b> <b>23/12/2019</b> decision type: <i>Delegated</i>
ADV/2018/2022 14-16 Market Way	Mary-Ann Jones	Written Representations	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk	Decision : <b>DISMISSED</b> <b>23/12/2019</b> decision type: <i>Delegated</i>
ADV/2018/2023 10-12 Market Way	Mary-Ann Jones	Written Representations	Installation of a freestanding single-sided internally-illuminated digital display screen in association with telephone kiosk	Decision : <b>DISMISSED</b> <b>23/12/2019</b> decision type: <i>Delegated</i>
TELO/2018/2001 Os JD Sports The Precinct	Mary-Ann Jones	Written Representations	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk	Decision : <b>DISMISSED</b> <b>23/12/2019</b> decision type: <i>Delegated</i>
TELO/2018/2002 Os JD Clinton Cards 25-27 Upper Precinct	Mary-Ann Jones	Written Representations	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk	Decision : <b>DISMISSED</b> <b>23/12/2019</b> decision type: <i>Delegated</i>
TELO/2018/2005 Adj Halifax 14 Market Way	Mary-Ann Jones	Written Representations	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk	Decision : <b>DISMISSED</b> <b>23/12/2019</b> decision type: <i>Delegated</i>
TELO/2018/2006 IFO Poundland Market Way	Mary-Ann Jones	Written Representations	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk	Decision : <b>DISMISSED</b> <b>23/12/2019</b> decision type: <i>Delegated</i>
TELO/2018/2007 Adj Carphone Warehouse Market Way	Mary-Ann Jones	Written Representations	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk	Decision : <b>DISMISSED</b> <b>23/12/2019</b> decision type: <i>Delegated</i>

TELO/2018/2008 OS Max Mobility 30 Market Way	<i>Mary-Ann Jones</i>	Written Representations	Prior approval for the installation of ground based electronic communications apparatus comprising a freestanding digital display screen and telephone kiosk	Decision : <b>DISMISSED</b> <b>23/12/2019</b> decision type: <i>Delegated</i>
FUL/2019/0232 189 and 191 Charter Avenue	<i>Shamim Chowdhury</i>	Written Representations	Change of use of two dwelling houses (Use Class C3) to two 10 bedroomed (10 persons) Houses in Multiple Occupation (HIMO, sui generis)	Decision : <b>DISMISSED</b> <b>24/12/2019</b> decision type: <i>Delegated</i>